



Ollscoil
Teicneolaíochta
an Atlantaigh

Atlantic
Technological
University

Interim Code of Governance Version 1.0

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This Policy was approved by the Governing Body on 13th June 2022. It shall be reviewed and, as necessary, amended by the University annually. All amendments shall be recorded on the revision history section above.

Preface

The *Code of Practice for the Governance of State Bodies version 2016* (hereafter referred to as “the State Code”) was published by the Department of Public Expenditure and Reform (DPER). State bodies and their subsidiaries are required to confirm to their relevant Minister that they comply with the State Code in their governance practices and procedures. The State Code has been tailored to reflect the requirements for Technological Universities under their legislation and that required by the Department of Further and Higher Education Research Innovation and Science (FHERIS) and the Higher Education Authority (HEA). This document will be referred to as the THEA Code of Governance for Technological Universities.

Good governance arrangements are essential for all organisations whether operating in the public or private sector. Governance comprises the systems and procedures under which organisations are directed and controlled. A robust system of governance is vital in order to enable organisations to operate effectively and to discharge their responsibilities as regards transparency and accountability to those they serve. Given the Technological Universities (TUs) pivotal role in society and in national economic and social development, as well as their heavy reliance on public as well as private funding, good governance is particularly important in the case of TUs.

Technological Universities Act 2018 (the TU Act) provides for the establishment of Technological Universities. The high-level principles of THEA Code of Governance for Technological Universities are set out at the beginning of each section of this Code. It should be noted that:

- this Code should be read in conjunction with the legislative provisions which govern the TUs. Existing legislative provisions¹ applying to the TUs on matters that are also the subject of this Code continue to apply and for the avoidance of doubt, in the event of any conflict or inconsistency, the legislative provisions prevail. The Code includes legislative references where relevant.
- provisions contained in this Code, including financial thresholds, may be amended from time to time by the Minister for Public Expenditure and Reform, having consulted with relevant Ministers;
- the Minister for Public Expenditure and Reform may issue circulars and/or guidance notes, from time to time, that may impact this Code or in relation to this Code; and
- this Code does not intend to address academic governance matters.

It is noted that the *Code of Practice for the Governance of State Bodies, which forms the basis of this Code*, will be a living document which will evolve in line with best practice. The most recent version of the *Code of Practice for the Governance of State Bodies* is available on the Department of Public Expenditure and Reform Government Accounting website (govacc.per.gov.ie/governance-of-state-bodies). Similarly, it is intended that this document will also be a living document and evolve over time in line with both best practice and legislative changes. The most recent version of this Code is available on the THEA website.

¹ Any reference contained in this Code of Practice, whether a reference to any enactment or otherwise, should be construed as a reference to such provision as amended, adapted or extended from time

This Code is effective for Atlantic Technological University from 13 June 2022

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Introduction

Corporate governance comprises the systems and procedures by which organisations are directed, controlled and managed. Technological Universities (TUs) should serve the interests of Government as shareholder, the taxpayer, students and all other stakeholders, and pursue value for money in their endeavours, including managing risk appropriately. TUs should act prudently, ethically and with transparency as public entities and should conduct their activities consistent with their statutory responsibilities and in the public interest.

Governance requirements arising from the provisions of the TU Act are statutory obligations.

High standards of corporate governance in TUs are critical to ensuring a positive contribution to the State's overall economic efficiency, competitiveness, social cohesion and regional development.²

The Governing Body and Management of the TUs are accountable for the proper management of the organisation. Governing Body members and employees of the TUs and their subsidiaries should be strongly guided by the principles set out in this Code in meeting their responsibility to ensure that all activities, whether covered specifically or otherwise in this document, meet the highest standards of corporate governance.

Good governance encourages better informed and longer-term decision-making as well as the efficient use of resources. It strengthens accountability for the stewardship of resources and is characterised by robust scrutiny which places ongoing emphasis on improving public sector performance.³

The Code is a voluntary code of governance that outlines a set of principles and best practices. It has been tailored from the State Code and takes account of developments in governance and is intended to be generally applicable to the internal practices, external relations and accountabilities of the TU. In the process of implementing this Code, model documents should be used as templates, and localised documents should be retained.

The Governing Body of each TU is primarily responsible for ensuring that its activities are governed by the ethical and other considerations enshrined in the Code. Where a TU's practices are not consistent with particular provisions of this Code, the reasons should be clear and documented. The provisions of this Code are supplementary to and do not affect existing statutory requirements relating to a TU, or any other legislation applicable to it or its activities.

² Adapted from the "Guidelines on Corporate Governance of State-Owned Enterprises" (OECD, 2015) page 11

³ "International Framework: Good Governance in the Public Sector" (IFAC/CIPFA, July 2014) page 6

About this Code

The Code provides a framework for the application of best practice in corporate governance by TUs. TUs should demonstrate their commitment to achieving the highest possible standards of corporate governance.

TUs are required to confirm to the Minister for Further and Higher Education, Research, Innovation and Science (Minister for FHERIS), and the HEA, as appropriate, that they and their subsidiaries comply with the Code of Practice for the Governance of State Bodies, as encapsulated by this Code, in their governance practices and procedures. A separate THEA Code of Governance for Subsidiary Companies has been developed and can be located and downloaded from the THEA Portal. The requirements should be applied in all trading subsidiaries and, as appropriate, in joint ventures of the TUs. Appropriate confirmation should be provided to the relevant Minister in relation to these.

Reference is made to ethics in public office obligations that apply to all, designated in accordance with that legislation.

The Code of Practice for Governance of State Bodies recognises that all aspects of the Code may not necessarily be appropriate. Accordingly, certain requirements have been identified as proportionately applicable to the TUs and reflected in this Code.

Each TU is also a registered charity and many of their subsidiaries may also be charities. Therefore, TUs must also comply with the Charities Act 2009. We have considered this legislation when developing this Code.

The provisions of this Code do not override existing statutory requirements and other obligations imposed by the TU Act, Companies Act 2014, Charities Act 2009, Ethics in Public Office legislation, and the specific statutory provisions relating to the TUs themselves and any other relevant legislation (e.g. equality legislation, employment legislation).

Oversight Agreements

Clear accountability underpins effective relations between Government Departments and the State bodies under their aegis. Effective accountability depends upon respective roles and responsibilities being clearly defined and understood on both sides of the agreement.

The starting point for clarity of accountabilities is the oversight agreement between the Minister/ Department of FHERIS / HEA as their representative agency and the TU. The oversight agreement is a written statement between the Minister/Department of FHERIS / HEA as their representative agency and the TU which clearly defines the terms of the Department of FHERIS relationship with the TU.

The oversight agreement should reflect the TUs legal framework; the environment in which the TU operates

(e.g. commercial, non-commercial, regulatory body); the purpose and responsibilities of the TU; the TU's level of compliance with this Code; details of the Performance Delivery Agreement (e.g. outputs to be delivered); and arrangements for oversight, monitoring and reporting on conformity with Government policy including those actions and areas of expenditure where prior sanction from the Department of FHERIS and / or the Department of PER is required.

The details of the Oversight Arrangements and Agreements are set out in Section 8.

Compliance Requirements

All TUs have a responsibility to implement good corporate governance standards.

This Code has been reviewed by the Department of FHERIS, the HEA and the Office of the Comptroller and Auditor General (OCAG) particularly in relation to the compliance requirements outlined in the State Code and how such requirements may where appropriate be suitably adapted to meet the needs of this sector.

Each TU should note compliance with this Code in its Annual Financial Statement Report and explain whether the requirements of the Code are implemented or are to be phased-in over a longer period of time, or otherwise varied in some way.

Comply or Explain

As outlined, exemptions from specific provisions in this Code may be justified in certain situations provided the objectives of those provisions can be achieved by other governance measures. Any TUs with derogations from the provisions of this Code should also have explanatory notes written into their oversight agreements with the Minister / Department of FHERIS with reasons for the exemptions clearly explained.

Legislative References

The Technological Universities Act (TU Act) 2018 impose a number of considerable governance requirements on Technological Universities. These will be referenced where appropriate throughout this document.

This document includes references to legislative provisions in the TU Act, as applicable to each section of this Code. The referenced provisions can be accessed via the hyperlinks inserted into this document.

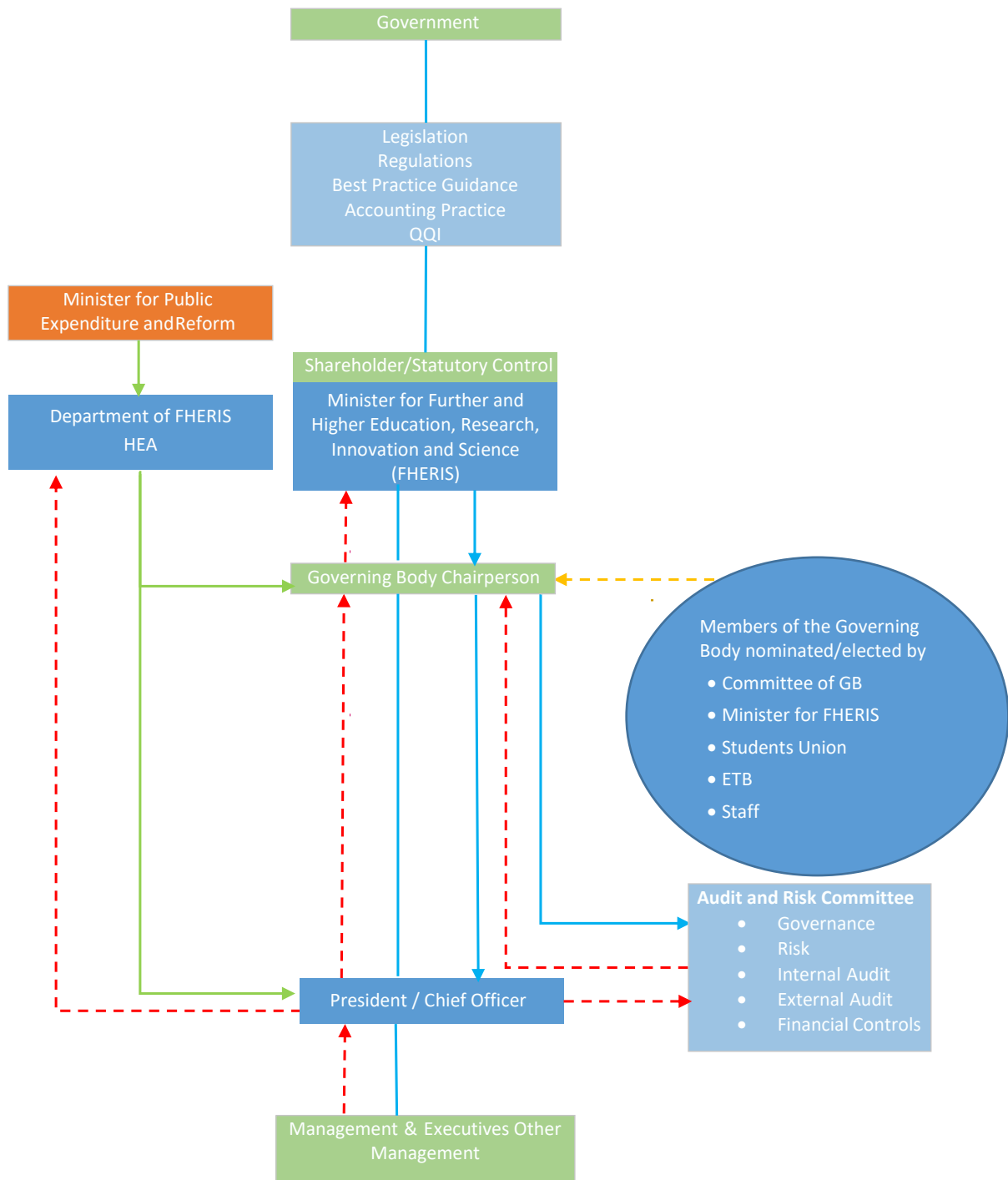
For clarity, we set out on the next page the key legislation relevant to the TUs.

Technological Universities

- *Technological Universities Act 2018 (3/2018)*

References to other relevant legislation and regulation are included in Appendix O.

Governance Framework



- Appoint/ Gives Direction →
- Reports to Accountable to →
- Provides Oversight →
- Nominates →

Governance Framework

The Governance Framework schematic on the previous page shows the main features of the governance framework relationship between Government and the TUs. The diagram does not purport to cover all aspects of this relationship which will vary depending on the differing nature, scale and responsibilities of the TUs and the governing legislation establishing the TUs.

The TU Act provides for the approval of the form of the annual report and the Annual Financial Statement Report, and for the furnishing of such information as the Minister may require. The Chairperson and Governing Body are ultimately responsible to the Minister (who is responsible to Government) for the operation and proper functioning of the TUs.

The functions and duties of the Governing Body are set out in the governing legislation of the TUs. The Governing Body should, using their high-level functions and duties as a guide, prepare customised /standing orders for the Governing Body.

The President shall, whenever required to do so by the Public Accounts Committee (PAC) of the Óireachtas, give evidence on the regularity and propriety of the TUs accounts, economy and efficiency of use of resources, effectiveness of operations and any other matters referred to the committee by the Comptroller and Auditor General (C&AG).

1. Role of the Governing Body

Guiding Principles

Each TU should be clear about its mandate and from that identify the various functions, roles and responsibilities entailed in the delivery of that mandate.

The Governing Body is collectively responsible for leading and directing the TU's activities. While the Governing Body may delegate particular functions to management the exercise of the power of delegation does not absolve the Governing Body from the duty to supervise the discharge of the delegated functions.

The Governing Body should fulfil key functions, including: reviewing and guiding strategic direction and major plans of action, risk management policies and procedures, annual budgets and business plans, setting performance objectives, monitoring implementation and TUs performance, and overseeing major capital expenditure and investment decisions.⁴

The Governing Body should act on a fully informed and ethical basis, in good faith, with due diligence and care, and in the best interest of the TU, having due regard to its legal responsibilities and the objectives set by Government.

The Governing Body should promote the development of the capacity of the TU including the capability of its leadership and staff.

The Governing Body is responsible for holding the President to account for the effective performance of their responsibilities (schedule 2 paragraph 6.1).

The Governing Body is responsible for approving the establishment, diversification, and disestablishment of a TU subsidiary. The selection of and the appointment of directors to the subsidiary company's Board is to be approved by the Governing Body (in accordance with section 25 of the TU Act).

⁴ Adapted from the "G20/OECD Principles of Corporate Governance" (OECD, September 2015) page 53

Legislative References

The relevant legislative provisions for this section are listed below:

Provision	TU Act 2018
Functions of technological university	Section 9
Governing body of technological university	Section 11
Staff of technological university	Section 14
Academic council of technological university	Section 16
Functions of academic council	Section 17
Strategic development plan	Section 18
Equality statement	Section 19
Budgets of technological university	Section 20
Accounts of technological university	Section 22
Annual report	Section 23
Report of An tÚdarás to Minister	Section 33
Governing Body of Technological University	SCHEDULE 1
President of Technological University	SCHEDULE 2

Code Provisions

- 1.1 Leadership:** The Governing Body's role is to provide leadership and direction of the TU within a framework of prudent and effective controls which enables risk to be assessed and managed. The strategic aims of the TU should be aligned with the System Performance Framework⁵, to the extent relevant, and ensure optimal use of resources to meet its objectives.
- 1.2 Ethical Standards:** The Governing Body has a key role in setting the ethical tone of the TU not only by its own actions but also in overseeing senior management and staff. High ethical standards are in the long-term interests of the TU and a key means to make it credible and trustworthy.⁶ It is important that the Governing Body sets the correct 'tone from the top'. The Governing Body should lead by example and ensure that good standards of governance and ethical behaviour permeate all levels of the organisation.
- 1.3 Compliance:** The Governing Body should review the controls and procedures adopted by the TU to provide itself with reasonable assurance that such controls and procedures are adequate to secure compliance by the TU with its statutory and governance obligations.
- 1.4 Collective Responsibility:** The collective responsibility and authority of the Governing Body should be safeguarded. All members of the Governing Body should be afforded the opportunity to fully contribute to Governing Body deliberations, and where necessary to provide constructive challenge, while excessive influence on the Governing Body decision-making by one or more individual members should be guarded against.
- 1.5 Governing Body Oversight Role:** The management of the TU has a duty to provide the Governing Body with all necessary information to enable the Governing Body to perform their duties to a high standard. The Governing Body of the TU should take all necessary steps to make themselves aware of any relevant information and access all information as necessary.

⁵ Managed through the HEA (<https://hea.ie/funding-governance-performance/managing-performance/system-performance-framework/>)

⁶ Adapted from "G20/OECD Principles of Corporate Governance" (OECD, September 2015) page 53

While the Governing Body of a TU may establish an Audit and Risk Committee to assist with its consideration of issues relating to audit, governance and risk management, the Governing Body of the TU maintains responsibility for and makes the final decisions on all of these areas.

- 1.6 Advice to Minister:** The Governing Body should ensure that the Minister is advised of matters arising in respect of the TU.

Matters for Decision of the Governing Body

1.7 Matters for Decision of the Governing Body:

The Governing Body should meet sufficiently regularly to discharge its duties effectively.⁷ The Governing Body may approve a formal schedule of matters specifically reserved for it for decision to ensure appropriate direction and control of the TU.

a) Statutory Functions

The formal schedule should include the various statutory functions reserved to the Governing Body as set out in the TU Act:

Provision	TU Act 2018
Functions of technological university	Section 9
Functions of technological university	Section 9, Subsection 5
Academic freedom	Section 10
Staff of technological university	Section 14
Academic Council of technological university /	Section 16
Functions of academic council	Section 17
Strategic development plan	Section 18
Equality statement	Section 19
Budgets of technological university	Section 20
Annual report	Section 23
Governing body of technological university	SCHEDULE 1

⁷ Taken from the Financial Reporting Council’s “UK Corporate Governance Code” (2016) page 7

b) Code functions

In addition to the statutory and reserved functions included in the Appendix B the schedule should include, at least, the following:

- Approval of the establishment of a company by the TU and of the acquisition, disposal or holding of shares in any such company as provided for in Section 25 of the TU Act (refer to appendix B);
- Approval of all capital projects and reinvestments [equal to or greater than €1 million] and approval of terms of major contracts [equal to or greater than €1 million];
- Approval of risk management policies;
- The functions relating to the appointment and removal and the setting of the terms and conditions of employment of the President provided for in Section 13 of the TU Act;
- Approval of the budget (Section 20(2) of the TU Act), the receipt of information with regard to a material departure from the budget (Section 20(6) of the TU Act) and advising the President as to whether it agrees with his or her opinion (Section 20(7) of the TU Act);
- Approval of the Annual Report in accordance with (Section 23(1) of the TU Act); and
- Assessment of the performance of and succession planning for the President.

c) The Code of Practice for the Governance of State Bodies 2016 stipulates that the Board of a State Body should meet twice a year without members of the Executive present to discuss any matters deemed relevant.

The underlying principle being that the Governing Body has a role in measuring the performance of the President and, in order to do that, the members involved need to be independent. Therefore, the Governing Body should meet at least twice a year without Governing Body members formally connected with the TU present to discuss any matters deemed relevant. Persons deemed connected include, but are not limited to, the President, staff members and student members.

1.8 Annual Confirmation: The Governing Body has responsibility for ensuring that effective systems of internal control are instituted and implemented. The Governing Body is required to confirm annually to the Minister that the TU has an appropriate system of internal and financial control in place, which is articulated in the Annual Governance Statement and Statement of Internal Control.

1.9 Expenditure and Performance: Decision on major items of expenditure should be aligned with medium to long-term strategies so as to ensure that such expenditure is focused on clearly defined objectives and outcomes. A performance measurement system, aligned to the Public Spending Code, should be put in place to assess the effectiveness/outcome of such expenditure and this should be reported to the Governing Body.

1.10 Post Resignation/Retirement: The Governing Body should, in a manner most effective to the TU, deal with the issue of post resignation/retirement employment, appointment and/or consultancy of its Governing Body members and employees by the private sector and should ensure that any procedures that it may have put in place in this regard are monitored and enforced to guard against conflicts of interest or inappropriate disclosure of information that might otherwise arise. Such procedures could include the return of Governing Body papers at the end of a Governing Body member's term.

1.11 Conflict of Interest and Conflict of Loyalty: The Governing Body should have procedures in place to monitor and manage potential conflicts of interest and conflicts of loyalty by members of the Governing Body and management (See paragraph 5.5.)

- 1.12 External Auditors:** The Governing Body should establish procedures for maintaining an appropriate relationship with the Comptroller and Auditor General (C&AG) as designated external auditors of the TU.
- 1.13 Terms of Reference:** All Committees established by the Governing Body, including but not limited to the Audit and Risk Committee, should each have a written terms of reference approved by the Governing Body. The Governing Body should agree the intervals within which the terms of reference should be reviewed by the Governing Body and updated as appropriate.
- 1.14 Protected Disclosures:** In line with the legal requirement under section 21 of the Protected Disclosures Act 2014, every TU shall establish and maintain procedures for the making of protected disclosures by workers who are or were employed by the TU and for dealing with such disclosures. The TU shall provide to workers employed by it written information relating to the procedures as set out above. Guidance for the purpose of assisting the public sector in the performance of their functions published by the Minister for PER can be found in the following document *“Guidance under section 21(1) of the Protected Disclosures Act 2014 for the purpose of assisting public bodies in the performance of their functions under the Act”*.

Statement of Strategy

- 1.15 Strategic Plan:** In accordance with [Section 18 \(1\)\(2\) of the TU Act](#), the Governing Body shall require the President to develop a strategic plan and the Governing Body will approve such plan with regard to the resources available to the TU. Such plans should set appropriate objectives, goals and relevant indicators and targets against which performance can be clearly measured. The TU should have a formal process in place for setting strategy including consultation with Governing Body.
- 1.16 Strategy statement:** The Governing Body should adopt a statement of strategy for a period of 3-5 years ahead. The statement should be aligned to national objectives and the system performance framework of the HEA. The Statement of Strategy should contain a mission statement, high level objectives and target outputs and outcomes in the key strategic areas of TU’s activity, as well as a statement on the resources to be deployed to meet the targets. Refer to section 8 of this Code for further requirements.
- 1.17 Implementation:** In addition to the requirements of the TU Act, implementation of the strategy by the management of the TU should be supported through an annual planning and budgeting cycle. The Governing Body should approve annual programmes and budgets and should formally undertake an evaluation of actual performance by reference to the programme and/or budget on an annual basis.
- 1.18 Annual Financial Statement Report:** The Governing Body should explain in the Annual Financial Statement Report the TU’s responsibility for the preparation of the report and financial statements whether they consider the financial statements to be a true and fair view of the TU’s financial performance and its financial position at the end of the year.

The Governing Body should state in the Annual Financial Statement Report that they are responsible for approving the accounts. There should also be a statement by the C&AG about the Governing Body’s reporting responsibilities.

- 1.19 Secretary of the Governing Body:** The secretary of the Governing Body in the TU is an employee

designated in accordance with the agreed structure of the TU. The Individual must have the skills necessary to discharge their statutory and legal duties and such other duties as designated by the Governing Body.

1.20 Role of Secretary of the Governing Body: The role of the Secretary of the Governing Body should be seen as a support to the Governing Body. The scale and scope of the role will depend on the size, nature and responsibilities of the TU.

The Secretary of the Governing Body may be assigned such functions and duties as may be delegated by the Governing Body. The duties can be classified as follows:

- statutory duties;
- duty of disclosure;
- duty to exercise due care, skill and diligence; and
- administrative duties.

1.21 Governance: The Secretary of the Governing Body should report to the Chairperson on all governance matters and should assist the Chairperson in ensuring relevant information is made available to the Governing Body and its committees.

The Secretary of the Governing Body is responsible for advising the Governing Body through the Chairperson on all governance matters. The Governing Body should have a list of statutory obligations and regulations that are required to be complied with and the execution of which depends on the Secretary of the Governing Body.

Division of Responsibilities

Guiding Principles

There should be a clear division of responsibilities between leading and managing the Governing Body and the executive responsibility for running the TU. No one individual should have unfettered powers of decision.⁸

Code Provision

1.22 Separation of Roles: The roles of the Chairperson and President cannot be combined. Their roles are governed by the following:

TU Act 2018
Schedule 1 and 2 of the Technological University Act 2018.

For convenience Appendix A provides an example of Governing Body Standing Orders and Appendix B details an example of the reserved functions of the Governing Body of a TU, whether derived directly from the Act or other instruments.

⁸ Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 8

Appendix A: Governing Body Standing Orders

Appendix B: Reserved Functions of the Governing Body

2. Role of the Chairperson

Guiding Principles

The Chairperson is responsible for leadership of the Governing Body and ensuring its effectiveness on all aspects of its role.⁹

The Chairperson should display high standards of integrity and probity and set expectations regarding culture, values, and behaviours for the TUs and for the tone of discussions at Governing Body level.

Legislative References

The relevant legislative provisions for this section are listed below:

Provision	TU Act 2018
Academic Freedom	Section 10
Governing Body of Technological University	Schedule 1
President of Technological University	Schedule 2

Code Provisions

- 2.1 Governing Body's Agenda:** The Chairperson and the President are responsible for the effective management of the Governing Body's agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues. The Chairperson and the President should meet in advance of the Governing Body meeting to agree the agenda. All Governing Body members are entitled to propose to the Chairperson matters which may be included on the Agenda.
- 2.2 Openness and Debate:** Essential to the effective functioning of The Governing Body is dialogue which is both constructive and challenging. The Chairperson should promote a culture of openness and debate by facilitating the effective contribution of key management and all Governing Body members.
- 2.3 Timely Information:** The Chairperson is responsible for ensuring that the Governing Body receive accurate, timely and clear information. The Chairperson should ensure effective communication with all relevant stakeholders.¹⁰
- 2.4 Governing Body Skills:** Where a Chairperson is of the view that specific skills are required on the Governing Body, they should advise the Minister of this view for their consideration sufficiently in advance of a time when Governing Body vacancies are due to arise.
- 2.5 Information Flows:** Under the direction of the Chairperson, the responsibilities of the Secretary of the Governing Body include ensuring good information flows within the Governing Body and its committees and between senior management and members of the Governing Body, as well as facilitating induction,

⁹ Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 5

¹⁰ Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 8

mentoring and assisting with ongoing professional development as required.¹¹

2.6 Annual Financial Statement Reporting Requirements:

The Chairperson is responsible for ensuring that the Governing Body meets its Annual Financial Statement Reporting Requirements, as further identified in Section 6 and as follows:

- **Corporate Governance Statement:** The Corporate Governance Statement is included in the Annual Financial Statement Report of the TU. The Statement provides additional information on the role of the Governing Body in terms of accountability and responsibility, as well as providing details on Governing Body sub-committees and meetings and detail on key activities and costs.
- **Statement of Internal Control:** The Statement of Internal Control should be included in the Annual Financial Statement Report of the TUs. This statement should be reviewed by the external auditors, the C&AG, to confirm that it reflects the TU's compliance with the requirements of paragraph 6.5(v) and is consistent with the information of which they are aware from their audit of the financial statements. The C&AG should include their report on this matter in their audit report on the financial statements. Refer to Section 6.5 and Appendix I Statement of Internal Control of this Code for further details.
- **Statutory Financial Statements:** In accordance with Section 22 of the TU Act, the statutory financial statements which include the Corporate Governance statement and Statement of Internal Control shall be submitted to the C&AG and, together with a copy of a report of the C&AG, shall be presented to the HEA and to the Minister.

The three documents outlined above are consolidated and reported as one as part of the annual financial statement reporting pack in a defined format as agreed with the HEA and C&AG and updated annually as appropriate.

- **Annual Governance Statement:** this is an annual statement provided by the TU to the HEA six months after the end of the financial year. This provides the HEA with timely information in relation to the activities of the TU particularly associated with governance and compliance. The information provided in these statements is drawn on to advise reporting to the HEA board and the Department. Refer to Annual Governance Statement (Appendix J). This statement is not subject to review by the C&AG.
- **Annual Report:** In accordance with Section 23 of the TU Act, a Technological University shall, not later than 30 June in each year, prepare and submit to the Minister and the HEA a report on its activities in the immediate preceding year.

¹¹ Adapted from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 13

3. Role of Members of the Governing Body

Guiding Principles

The TU should be headed by an effective Governing Body which is collectively responsible for the long-term sustainability of the TU.

All Governing Body members should bring an independent judgement to bear on issues such as strategy, performance, resources, key appointments, and standards of conduct.

Legislative References

The relevant legislative provisions for this section are listed below:

Provision	TU Act 2018
Governing Body of Technological University	Section 11
Governing Body of Technological University	Schedule 1

Code Provisions

3.1 Fiduciary Duty: All Governing Body members have a fiduciary duty to the TU in the first instance (i.e. the duty to act in good faith and in the best interests of the TU).

The principle fiduciary duties generally are:

- to act in good faith in what the Governing Body member considers to be the interest of the TUs;
- to act honestly and responsibly in relation to the conduct of the affairs of the TUs;
- to act in accordance with the TU Act and exercise his or her powers only for the purposes allowed by law;
- not to benefit from or use the TU’s property, information or opportunities for his or her own or anyone else’s benefit unless the TU’s constitution permits it or a resolution is passed in a general meeting;
- not to agree to restrict the Governing Body member’s power to exercise an independent judgment;
- to avoid any conflict between the Governing Body member’s duties to the TU and the Governing Body member’s other interests unless the Governing Body member is released from his or her duty to the TU in relation to the matter concerned;
- to exercise the care, skill and diligence which would be reasonably expected of a person in the same position with similar knowledge and experience as a Governing Body member. A Governing Body member may be held liable for any loss resulting from their negligent behaviour; and
- to have regard to interests of the TU’s members.

The powers of governance and management of a TU are delegated by the members of the TU to the Governing Body and the Governing Body owe their duties, first and foremost, to the TU.

3.2 Subsidiary Boards & the Companies Act 2014: Under the Companies Act 2014 there is specific statutory recognition for the fiduciary duties of directors of companies incorporated under the

Companies Act, 2014 or the Companies Acts, 1963-2013. While the TUs are not incorporated under the Companies Act 2014, Boards of the TU subsidiaries formed under the Companies' Acts must adhere with the specific duties and obligations they have under the Companies Act 2014. It is the responsibility of each Board member to act in conformity with applicable provisions.

A Board member, as a company director, shall comply with the notification requirement to the Registrar of Companies upon becoming a Board member with a signed statement in the following terms:

"I acknowledge that, as a director, I have legal duties and obligations imposed by the Companies Act, other statutes and common law".

Part 5 of the Companies Act 2014 consolidates the duties and responsibilities of directors in one unified code for clarity and transparency. The Companies Act, 2014 applies to all company directors, incorporated under the provisions of the Companies Act, 2014 or under any former company law enactment including those directors that have been formally appointed and to de facto directors.

The Companies Act 2014 also includes a number of general duties for directors:

- Directors must ensure compliance with the Companies Act and the various tax acts.
- Directors must ensure that the company secretary is suitably qualified.
- Directors must acknowledge the existence of their duties by signing a declaration to that effect.
- Directors must take into account the interests of the members of the company and have regard to the interests of the employees.
- Restrictions on loans, quasi loans, credit transactions and certain guarantees and security exist for directors but will be subject to the new summary approval procedure.
- Directors must disclose any interests in contracts made by the company.
- Directors must notify the company of any interests in shares in the company, its parent or subsidiary but no obligation arises if the shares held represent less than 1% of the share capital of the company or the shares do not have voting rights.

Directors who are found to be in breach of their duties will be liable to account for any gains accrued and must indemnify companies for losses resulting from any breaches of duties. A court may grant relief from liability where it is satisfied that a director acted honestly and reasonably at all times.

3.3 Non-compliance: If a Governing Body member finds evidence that there is non-compliance with any statutory obligations that apply to the TU or its subsidiaries, they should immediately bring this to the attention of their fellow members of the Governing Body with a view to having the matter rectified.

The matter should also be brought to the attention of the HEA by the Chairperson indicating (i) the consequences of such non-compliance and (ii) the steps that have been or will be taken to rectify the position. It is the Chairperson's responsibility to make such issues known to the Minister.

The HEA must be notified without delay where:

- i) there is serious weakness in controls that have not been addressed despite being drawn to the attention of the Governing Body or the Chairperson;
- ii) there is a significant strategic or reputational risk to the TU that is not being addressed; and/or
- iii) there are serious concerns about possible illegality or fraud occurring in a TU. A Governing Body member may have obligations under company law (if it applies) in situations where an HEI or its subsidiary is not being conducted in accordance with law.

3.4 Professional Advice: The Governing Body should, in a Governing Body resolution, lay down formal procedures whereby Governing Body members, in the furtherance of their duties, may take independent professional advice, if necessary, at the reasonable expense of the TU where they judge it necessary to discharge their responsibilities as Governing Body members. The Governing Body should have in place a procedure for recording the concerns of Governing Body members that cannot be resolved.

3.5 Letter of Appointment: A formal standard letter of appointment (see appendix A2) should be issued to new Governing Body members by the TU following receipt of the letter from the Minister for FHERIS. The letter of appointment should include the following:

- role of the Governing Body and that of a Governing Body member;
- the Governing Body's terms of reference;
- duration of appointment and renewal provisions;
- support and training to be provided;
- the time commitment involved;
- level of remuneration;
- conflict of interest rules;
- termination arrangements; and
- Rules on confidentiality.

The letter is to be provided to the Secretary of the Governing Body for record.

Appendix C: Outline of Obligations under Ethics in Public Office Acts

Appendix A2: Governing Body Member Letter of Appointment

Briefing for New Members of the Governing Body

3.6 On the appointment of new members of the Governing Body, the Secretary of the Governing Body should provide them with the following information:

- a formal schedule of matters specifically reserved for the Governing Body for decision to ensure appropriate direction and control of the TU (see paragraph 1.7);
- procedures for obtaining information on relevant new laws and regulations
- procedures to be followed when, exceptionally, decisions are required between Governing Body meetings;
- a schedule detailing the composition of all Governing Body committees and their terms of reference;
- a statement explaining the Governing Body members' responsibilities in relation to the preparation of the financial statements, the TU's system of internal control and audit and for reporting on the business as a going concern with supporting assumptions or qualifications as necessary;
- a statement informing Governing Body members that they have access to the advice and services of the Secretary, who is responsible to the Governing Body for ensuring that procedures are followed and that these procedures comply with the applicable rules and regulations;

- a copy of the code of ethics/conduct for Governing Body members, including requirements for disclosure of members' interests and procedures for dealing with conflict of interest situations;
- specific information on the role and responsibilities of the TU;
- a copy of relevant legislation (or excerpts thereof) together with the most up to date version of this Code and any relevant circulars and/or guidance notes; and
- a listing of the statutory requirements relating to the TU.

3.7 Independent judgement: All members of the Governing Body should bring an independent judgement to bear on issues such as strategy, performance, resources, key appointments, and standards of conduct. Section 5.5 of this Code sets out the approach to dealing with any business or other interests of a Governing Body member that could affect their independence.

3.8 Attendance Requirement: Members of the Governing Body are appointed as they bring specific knowledge, skills, experiences and expertise to the deliberations of the Governing Body and its committees and this is only possible if members attend all meetings and contribute as appropriate. The Governing Body should clarify an expectation of 100% attendance at all Governing Body meetings and, as part of the assignment of a new Governing Body member, evaluate attendance where the member may be re-appointed.

3.9 Access to Secretary of the Governing Body: All members of the Governing Body should have access to the advice and services of the Secretary of the Governing Body, who is responsible to the Governing Body for ensuring that Governing body procedures are complied with. The Secretary of the Governing Body is also responsible for the formal induction of new Governing Body members and organising mentoring for members where required.

4. Governing Body Effectiveness

Guiding Principles

The Governing Body and its committees should have the appropriate balance of skills and knowledge to enable them to discharge their respective roles and responsibilities effectively.¹²

Governing Body members should receive formal induction on joining the Governing Body and should regularly update and refresh their skills and knowledge.¹³

The Governing Body should be supplied in a timely manner with information in a form and of a quality appropriate to enable it to discharge its duties.¹⁴

Governing Body members need to be able to allocate sufficient time to discharge their responsibilities effectively.¹⁵

The Governing Body should undertake an annual self-assessment evaluation of its own performance and that of its committees. Evaluation of the Governing Body should consider the balance of skills, experience, independence and knowledge of the TUs on the Governing Body, its diversity, including gender, how the Governing Body works together as a unit, and other factors relevant to its effectiveness.¹⁶

The Chairperson should act on the results of the performance evaluation by addressing any weaknesses identified through the Governing Body self-assessment evaluation.

Legislative References

The relevant legislative provisions for this section are listed below:

Provision	TU Act 2018
Governing body of technological university	Section 11
Governing Body of technological university	SCHEDULE 1

¹² Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 10

¹³ Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 13

¹⁴ Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 13

¹⁵ Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 12

¹⁶ Adapted from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 14

Code Provisions

4.1 Governing Body Appointments: Governing Body appointments must be made in compliance with the requirements of Section 12 of the TU Act.

4.2 Skills and Knowledge: Governing Body members should have the appropriate skills and knowledge, updated as required, appropriate to the activities of the TU, to enable them to discharge their respective duties and responsibilities effectively. This should include the identification by the Governing Body of any gaps in competencies and ways these gaps could be addressed through future appointments.

Skill gaps present on the Governing Body should be brought to the attention of the Minister by the Chairperson of the Governing Body sufficiently in advance of a time when vacancies are due to arise, as outlined in paragraph 2.4.

4.3 Specific Skills: In accordance with section 12 of the TU Act the Governing Body shall agree with An tÚdarás the competencies required of any new members relating to areas such as business, enterprise, finance, law, corporate governance, human resources, community organisation or other areas relevant to the functions of the TU.

4.4 Gender Balance, Diversity and Inclusion: Appointments to the TU Governing Body should be made against objective criteria with due regard for the benefits of gender balance, diversity and inclusion on the Governing Body. The Chairperson of the Governing Body should have due regard for the benefits of gender balance, diversity and inclusion on the Governing Body including gender and advise the Nominating Body accordingly. The current gender composition of the Governing Body should be highlighted when making submissions to the Nominating Body on Governing Body appointments and re-appointments.

When writing to the Minister in connection with Governing Body appointments and reappointments, attention should be drawn to the current gender balance on the Governing Body.

Section 12(5)(b) of the TU Act applies here and provides that:

In making regulations of a technological university under paragraph (a) the technological university shall have regard to the objective that at least 40 per cent of members of the governing body shall be women and at least 40 per cent shall be men.

4.5 Promoting Diversity and Inclusion: The Annual Financial Statement Report should give an account of the approach being adopted in regard to the promotion of diversity and inclusion, including with regard to gender, in the specific context of the organisation; and on the progress and achievements in this regard.

4.6 Terms of Appointment:

The terms of appointment of Governing Body members are set out in legislation as follows:

Term of Appointment	TU Act 2018
Membership of governing body of technological	Section 12 (3)(a)

Term of Appointment	TU Act 2018
university – Other than President and Student <ul style="list-style-type: none"> • Term of office shall not exceed 4 years • Such member cannot serve more than two consecutive terms of office 	
Membership of governing body of technological university - Student <ul style="list-style-type: none"> • Term of office shall not exceed one year • Maybe appointed for a further period not exceeding one year 	Section 12 (3)(b)

4.7 Performance Review: Monitoring of effective corporate governance by the Governing Body includes continuous review of the internal structure of the TU to ensure that there are clear lines of accountability for management throughout the TU. In addition to requiring the monitoring and disclosure of corporate governance practices on a regular basis, the Governing Body should undertake an annual self- assessment evaluation of its own performance and that of its committees. An external evaluation proportionate to the size and requirements of the TU should be carried out at least once in the term of every Governing Body. The Governing Body evaluation process should incorporate a detailed analysis of the gender, diversity and skills mix within the Governing Body, including where relevant, a critical assessment of the reasons why gender balance in Governing Body membership has not yet been achieved.

4.8 Statement of How the Governing Body Operates: The Corporate Governance Statement (part of the Annual Financial Statement Report) should include an outline of how the Governing Body operates.

4.9 Appointment of President as Chairperson: In accordance with good governance the President should not go on to be appointed as Chairperson of the same TU. The appointment of Chairperson should be made in accordance with the TU Act (sections 12(1)(b) and 55(2)). A President shall not hold any other office or position without the consent of the Governing Body.

The roles of the Chairperson and President are governed by the relevant legislation.

Role	TU Act 2018
Governing body of technological university	SCHEDULE 1
President of technological university	SCHEDULE 2

4.10 Frequency of Governing Body Meetings: The frequency of meetings of the Governing Body and its committees and the attendance of each Governing Body member at Governing Body meetings should be reported in the annual report and Annual Financial Statement Report.

The Governing Body should meet at least six times in any twelve-month period. Furthermore, the Governing Body should meet at least twice a year without Governing Body members formally connected with the TU present to discuss any matters deemed relevant. This can be for a portion of a Governing Body meeting (section 1.7c above).

Persons deemed connected include, but not limited to, the President, staff members and student

members.

Provision	TU Act 2018
Governing body of technological university	SCHEDULE 1

A model Governing Body Self-assessment Evaluation Questionnaire is provided for use by the Governing Body to self-assess/promote discussion regarding Governing Body performance. The questionnaire can be found in Appendix N of this Document.

5. Codes of Conduct, Ethics in Public Office, Additional Disclosure of Interests by Governing Body Members and Protected Disclosures

Guiding Principles

To ensure continued integrity and transparency, and to avoid public concern or loss of confidence, the Governing Body should ensure that appropriate policies are in place so that members and staff take decisions objectively and steps are taken to avoid or deal with any potential conflicts of interest, whether actual or perceived.¹⁷

These policies should ensure that any potential or actual conflicts of interest arising in the case of decision-making by Governing Body members and the TU's employees are addressed.

Whilst the Ethics in Public Office Acts 1995 to 2001 does not currently apply to the TU, this Code will require Governing Body members to (voluntarily) comply with the provisions of this Code.

Code Provisions

- 5.1 Codes of Conduct:** All TUs should have published Codes of Conduct for their Governing Body and employees. The codes should be developed via a participative approach and should be approved by the Governing Body taking into account the implications of all the relevant provisions of the TU Act as well as the Ethics in Public Office Act 1995 and Standards in Public Office Act 2001. A suggested framework for such a code is contained in Appendix D. The Code of Conduct, a copy of which should be made available to all members of Governing Body and Employees for their retention, should embrace such matters as duty to the TU, principles for addressing conflict of interest, limits on outside activities, acceptance of gifts and honesty in dealings. The up-to-date codes of conduct should also be available upon request with a copy of each such code being accessible through the TU's website and brought to the attention of all Governing Body members, management and employees.
- 5.2 Scope of Application:** The Code of Conduct should contain a description of nature, intent and scope of application of the Code and a statement of the guiding principles and obligations.
- 5.3 Compliance Requirements:** The Code of Conduct should refer to the need for the Governing Body and staff to comply with relevant legislative and regulatory requirements. The Code of Conduct for Subsidiaries should also refer to the need for the Governing Body and staff to comply with relevant legislative and regulatory requirements. It should identify the relevant provisions regarding

¹⁷ Adapted from "International Framework: Good Governance in the Public Sector" (IFAC/CIPFA, July 2014) pages 13-14

conduct/conflicts of interest in the governing legislation of the TU.

- 5.4 Ethics in Public Office:** Although the TUs are a public body under the Ethics in Public Office Acts 1995 – 2001, no regulation (as at March 2022) has been made prescribing membership of the Governing Body as a designated directorship. That said, the Governing Body expect compliance with the relevant provisions of the Ethics in Public Office Acts 1995 – 2001.

The Code of Conduct refers to the need for each member of the Governing Body and each person occupying a Designated Position of employment (using the Guidelines on Compliance with the Provisions of the Ethics in Public Office Acts 1995 and 2001 for universities as a guide) with the TU to ensure their compliance with relevant provisions of the Ethics in Public Office Acts 1995 and 2001. Each Governing Body member, whether they hold a designated directorship under the Ethics in Public Office Acts 1995 and 2001 or not, is required to follow the obligations set out in Appendix C regarding disclosure of interests.

As a matter of best practice, this Code requires each Governing Body member to submit, under the Ethics in Public Office Acts, an Annual Return including a nil return of interests where applicable. This ensures that there is evidence that each member has considered their obligations.

- 5.5 Conflicts of Interest and Conflicts of Loyalty:** The Code of Conduct should set out procedures for addressing conflicts of interest and conflicts of loyalty. In particular the Code of Conduct should recommend that the acceptance of further employment where the potential of conflict of interest arises should be restricted during a reasonable period of time after the exercise of a function in the TU has ceased. This should be brought to the attention of Governing Body members on their appointment to the Governing Body. A conflict of loyalty means a particular type of conflict of interest, in which a person's loyalty or duty to another person or organisation could prevent them from making a decision only in the best interest of the TU.

Additionally, as required by the HEA, each TU should develop a policy on potential conflicts of interest in relation to all staff, members of Governing Body and external parties, who are involved in the activities of the TU, to include a requirement to maintain a register of reported conflicts. A summary report on such conflicts should be provided to Governing Body on an annual basis. This report should have due regard to the requirements of Data Protection legislation and policy.

- 5.6 Non-disclosure of Information:** The Code of Conduct should make clear that obligations of the Governing Body and employees regarding the non-disclosure of privileged or confidential information do not cease when their membership or employment in the TU has ended. This should be brought to the attention of employees and of Governing Body members on their appointment to the Governing Body. Former Governing Body members should treat commercial information received while acting in that capacity as confidential.

- 5.7 Document Retention:** Governing Body members should not retain documentation obtained during their terms as members and should return such documentation to the Secretary of the Governing Body or otherwise indicate to the Secretary of the Governing Body that all such documentation in their possession has been disposed of in an appropriate manner. In the event that former Governing Body members require access to Governing Body papers from the time of their term on the Governing Body, this can be facilitated by the Secretary of the Governing Body.

Additional Disclosure of Interests by Governing Body Members

Code Provisions

5.8 Disclosure of Interests by Governing Body Members

- i) **Periodic Disclosure of Interests:** On appointment and annually thereafter, each member of the Governing Body should furnish to the office of the Secretary of the Governing Body a statement in writing of:
- (a) the interests of the Governing Body member;
 - (b) the interests, of which the Governing Body member has actual knowledge, of their spouse or civil partner, child, or child of their spouse or civil partner;
- which could materially influence the Governing Body member in, or in relation to, the performance of their official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the Governing Body member, or the spouse or civil partner or child, a substantial benefit.
- For the purposes of this disclosure, interests has the same meaning as that contained in the Ethics in Public Office Act 1995. The statement of interests form used for annual statements under the 1995 Act could be utilised for this purpose on an administrative basis. Where the Governing Body member furnishes the annual statement of interests in January each year under section 17 of the Ethics in Public Office Act 1995 this will suffice for the purposes of the annual disclosure of interests under this Code.
- ii) **Disclosure of interest relevant to a matter which arises:** In addition to the periodic statements of interest required under (i) above, members of the Governing Body are required to furnish a statement of interest at the time where an official function falls to be performed by the Governing Body member and they have actual knowledge that they, or a connected person as defined in the Ethics Acts, has a material interest in a matter to which the function relates. For the purposes of this disclosure, material interests has the same meaning as that contained in the Ethics in Public Office Act 1995.
- iii) **Doubt:** If a Governing Body member has a doubt as to whether an interest should be disclosed pursuant to this Code, they should consult with the Chairperson of the Governing Body and/or the nominated person in the TU for dealing with such queries.
- iv) **Confidential Register:** Details of interests disclosed under this Code should be kept by the Secretary of the Governing Body or other nominated person in a special confidential register. Access to the register should be restricted to the Chairperson and Secretary of the Governing Body and other members of the TU on a strictly need to know basis.

- v) **Chairperson's Interests:** Where a matter relating to the interests of the Chairperson arises, the other members attending the meeting shall choose one of the members present at the meeting to chair the meeting. The Chairperson should absent themselves when the Governing Body is deliberating or deciding on a matter in which the Chairperson or their connected person has an interest.
- vi) **Documents withheld:** Governing Body or TU documents on any deliberations regarding any matter in which a member of the Governing Body has disclosed a material interest should not be made available to the Governing Body member concerned.
- vii) **Early return of documents:** As it is recognised that the interests of a Governing Body member and persons connected with them can change at short notice, a Governing Body member should, in cases where they receive documents relating to their interests or of those connected with them, return the documents to the Secretary of the Governing Body at the earliest opportunity.
- viii) **Absent:** A member of the Governing Body should absent themselves when the Governing Body is deliberating or deciding on matters in which that member (other than in their capacity as a member of the Governing Body) has declared a material interest. In such cases consideration should be given as to whether a separate record (to which the Governing Body member would not have access) should be maintained. (NB. Members of the Governing Body who are designated directors should note the separate requirements under the Ethics in Public Office Acts 1995 and 2001 regarding a 'material interest').
- ix) **Uncertainty:** Where a question arises as to whether or not an interest declared by a Governing Body member is a material interest, the Chairperson should determine the question as to whether the provisions of this Code apply. Where a Governing Body member is in doubt as to whether he or she has an obligation under the Ethics in Public Office Acts 1995 and 2001, he or she should seek advice from the Standards in Public Office Commission under section 25 of the Ethics in Public Office Act 1995.

5.9 Other Membership Conditions:

Section 3 and 7 of Schedule 1 of TU Act provides for the following:

3. (4) *A member of the governing body shall cease to be qualified for office and shall cease to hold office if he or she—*
- (a) is adjudicated bankrupt,*
 - (b) makes a composition or arrangement with creditors,*
 - (c) is sentenced by a court of competent jurisdiction to a term of imprisonment,*
 - (d) is convicted of any indictable offence in relation to a company or any other body corporate,*
 - (e) is convicted of an offence involving fraud or dishonesty,*
 - (f) has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or*
 - (g) is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act.*
7. (1) *Where a member of the governing body is—*
- (a) nominated as a member of Seanad Éireann,*
 - (b) elected as a member of either House of the Óireachtas or to be a representative in the European Parliament, or*

(c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, he or she shall thereupon cease to be a member of the governing body.

Where any of the above applies, the Governing Body member must inform the Chairperson immediately and tender their resignation from the Governing Body.

Protected Disclosures Legislation

- 5.10 Protected Disclosures Act 2014:** Section 21 of the Protected Disclosures Act 2014 requires that every TU shall establish and maintain procedures for the making of protected disclosures by workers who are or were employed by the TU and for dealing with such disclosures. Written information in relation to those procedures must be provided to workers employed by the TU.
- 5.11 Guidance:** The Minister for PER has published [Guidance under section 21\(1\) of the Protected Disclosures Act 2014 for the purpose of assisting public bodies in the performance of their functions under the Act.](#) The TU shall have regard to this Guidance when establishing and maintaining their own protected disclosures procedures under the Act and accordingly, THEA has developed a Protected Disclosure model policy (see appendix P).
- 5.12 Protected Disclosures Annual Report:** The TU shall publish a report on protected disclosures in accordance with section 22 of the Protected Disclosures Act 2014 not later than 30 June in each year in respect of the previous calendar year.

6. Business and Financial Reporting

Guiding Principles

Taking account of public accountability and the special considerations which attach to the TUs in relation to their management and operation, the annual report and the Annual Financial Statement Report should be fair, balanced and understandable and provide the information necessary for an assessment of the TU's financial performance, financial position, business model and strategy.¹⁸

A fundamental duty of the Governing Body is to ensure that a balanced, true and fair view of the TU's financial performance and financial position is made when preparing the annual report and the Annual Financial Statement Report of the TU and when submitting these to the HEA and Minister for FHERIS.

The Governing Body should ensure that timely and accurate disclosure is made to the Minister on all material matters regarding the TU, including the business context, financial performance and position, and governance of the TU.¹⁹

As per TU Act, the TU shall, not later than 30 June in each year, prepare and submit a report on its activities in the immediately preceding year. This report shall hereinafter be referred to as the 'Annual Report'.

As per the Charities Act, a charity trustee shall in respect of each financial year, prepare a statement of accounts. This report shall hereinafter be referred to as the 'Annual Financial Statement Report'

Legislative References

The relevant legislative provisions for this section are listed below:

Provision	TU Act 2018
Budgets of Technological University	Section 20
Borrowing, Guaranteeing and Underwriting	Section 21
Accounts of technological university	Section 22
Annual Report	Section 23

Clarification and Definition

For clarification we set out below the different annual reports that are required and provide naming convention to aid understanding.

Annual Financial Statement Report: This report includes the following:

- Corporate Governance Statement;
- Statement on System of Internal Controls;

¹⁸ Adapted from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 16

¹⁹ Adapted from "G20/OECD Principles of Corporate Governance" (OECD, September 2015) page 41

- Report of the Comptroller and Auditor General; and
- Financial Statements

Annual Report: The Annual Report (section 23 TU Act), is a comprehensive report of the TU’s activities throughout the preceding year which may include the annual financial report or part thereof. Annual reports are intended to give stakeholders information regarding the TU’s activities and financial performance.

Annual Governance Statement: The Annual Governance Statement (paragraph 6.5) should be sent directly to the HEA and should not be included in the Annual Financial Statement Report of the TU.

Code Provisions

The publication of the Annual Financial Statement Report which includes the audited financial statements is a primary expression of public accountability for the TU. The objective of financial statements is to provide information about the financial performance, position and cash flows of the TUs that is useful for economic decision-making for a broad range of stakeholders.²⁰

The Governing Body of a TU is required to arrange for the preparation of the financial statements in respect of each financial year. The annual financial statements are prepared from the information contained in the TU’s accounting records and other relevant information (e.g. consolidation of subsidiary accounts) and in accordance with the accounting standards applicable to the TU in a form that has been approved by the HEA and the THEA Format of Accounts working group.

The Governing Body must present the TU’s financial statements that give a true and fair view of the income, expenditure (financial performance), assets, liabilities and capital (financial position) of the TU as at the financial year end.

Reference to financial statements giving a “*true and fair view*” means in the case of an entity and group financial statements, that the financial statements present fairly the income and expenses (financial performance), assets, liabilities and capital (financial position), and cash flows of the TU or group concerned.

In order for a set of financial statements to give a true and fair view they should²¹:

- comply with the accounting standards applicable to the TU;
- incorporate judgment as to valuation, disclosure, and materiality that aim to give a true and fair view;
- be prudent in the consideration of matters of judgment in the financial statements, especially where there is uncertainty; and
- ensure that the financial statements reflect the commercial substance of transactions, and not just their legal form.

In accordance with the TU Act, the Governing Body is required to arrange for the financial statements to be audited by the C&AG as the TU’s independent auditor.

An audit is an independent examination of the financial statements. The purpose of an audit is to enhance the degree of confidence of intended users in the financial statements. Having conducted an examination of the financial statements, the C&AG is required to report to the Governing Body of the TU. In that report, the C&AG is required to form an opinion on a number of matters including, for example whether the financial statements give a true and fair view and whether the financial statements are in agreement with the underlying accounting records.

The Annual Financial Statement Report is to be submitted to the Óireachtas and the HEA within one month from

²⁰ Adapted from “FRS 102” (Financial Reporting Council, September 2015) page 28

²¹ Adapted from the “The Principal Duties and Powers of Company Directors under the Companies Act” (ODCE, 2015)

the receipt by the TU of the Audit Certificate from the C&AG.

The annual report is a comprehensive report of the TU's activities throughout the preceding year which may include the financial statements or an abridged financial statements. Annual reports are intended to give stakeholders information regarding the TU's activities and financial performance.

The Chairperson of the Governing Body is required to submit an Annual Governance Statement to the HEA in accordance with the specific reporting requirements set out in paragraph 6.5 of this Code. It includes items such as affirmation that Government policy is being complied with, significant post balance sheet events, a statement on the system of internal control and an outline of all commercially significant developments affecting the TU in the preceding year.

Annual Financial Statement Report

6.1 Audited Financial Statements: All TUs are required to publish audited financial statements. As set out above the financial statements are a formal record of the financial performance and financial position of the TU.

6.2 Preparation of Annual Financial Statement Report: Each TU is required to produce an Annual Financial Statement Report. The Governing Body is responsible for the preparation of the Annual Financial Statement Report in accordance with relevant legislation and accounting standards. The Governing Body is required to:

- ensure consistent application of accounting policies;
- make judgements and estimates that are reasonable and prudent; and
- ensure the preparation of the financial statements on a going concern basis unless it is inappropriate to presume that the entity will continue in existence for the foreseeable future.

Where the financial year end of subsidiaries are not aligned, the TU and subsidiary should make arrangements to ensure that there is clarity about information requirements and timelines relating to;

- Remuneration; and
- Budget approval.

Financial statements should be subject to external audit by C&AG before inclusion in the TU's annual financial statement report. It is important that every effort is made not to delay the presentation of the financial statements before the Houses of the Óireachtas.

6.2.1. Specific Elements to be disclosed in the Annual Financial Statement Report: In addition to disclosure requirements of the TU's governing legislation, applicable accounting standards and other regulations applying to the TU, specific elements to be disclosed in the Annual Financial Statement Report include:

- A Statement of how the Governing Body operates, including a statement of types of decisions to be taken by the Governing Body and which are to be delegated to management.²² The list of reserved functions are captured in Appendix B.

²² Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 7

- The names of the Chairperson, the deputy Chairperson (if any), the President and members of the Governing Body and Governing Body committees.
- Termination/Severance Payments and Agreements – “The financial statements should disclose details of payments and agreements with an aggregate value in excess of €10,000 made in the reporting period. This includes severance/ termination payments, granting of added years for pension purposes or early retirement without normal actuarial reductions. The value of the latter can be determined in accordance with guidance to be issued by the Department of PER from time to time. Given the policy underlying the Freedom of Information Acts, in concluding settlements the TU should not enter into confidentiality agreements which preclude it from disclosing details of the settlement reached in the financial statements, save in exceptional circumstances and on foot of legal advice that they are necessary in the circumstances of the case. When, in those circumstances, confidentiality agreements are entered into, parties to the agreements should be given prior notice that they may be subject to disclosure in any case where an overriding public interest is identified or when required by law.
- Travel and Subsistence - The financial statements should disclose the total costs incurred in relation to travel and subsistence for the TUs analysed between national and international travel.
- Hospitality Expenditure - The financial statements should disclose the aggregate total expenditure incurred in relation to hospitality in the period. (This includes Christmas parties, retirement parties, expenditure on staff wellbeing, contribution to sports and social clubs, One4all vouchers, retirement/leaving gifts, flowers, etc.)
- Legal Costs/Settlements – in cases where cumulative legal costs incurred in the year of account exceed €50,000, a note should be included in the financial statements with a breakdown of the total costs as between legal fees and compensation paid.
- Consultancy Costs – The TUs should disclose details of expenditure on external consultancy/adviser fees in their Annual Financial Statement Report for each accounting year for each entity.

For this purpose, consultancy fees mean fees paid to external parties providing advisory services of any nature. Such fees should be itemised by category as stated below or as the TU considers appropriate having regard inter alia to its size and competitive position and to the extent to which information is already disclosed:

- Legal (legal fees across all areas to be included here e.g. for pension, HR etc.);
- Tax and financial advisory (e.g. due diligence, accounting, corporate finance);
- Public relations/marketing; and
- Pensions and human resources; and
- Other.

Note that financial advisory excludes what is currently required to be disclosed in respect of fees paid to the auditors.

In procuring the services of external consultants, the TU should comply with all applicable laws and Code guidelines regarding competitive tendering.

Please refer to the THEA Portal for the latest Annual Financial Statement Reporting Pack Template.

6.2.2. Reporting Requirements: Reporting requirements should be adhered to as follows:

It is important to note that the Department of Further and Higher Education, Research, Innovation and Science / HEA may choose to seek additional financial information at more frequent intervals than those outlined below

- **Draft Unaudited Financial Statements:** In line with Section 22 of TU Act, draft unaudited financial statements²³ for each TU should be furnished to the C&AG by such date as the C&AG may from

²³ Draft unaudited financial statements refer to draft financial statements and notes thereon (in accordance with applicable accounting standards) and not management accounts.

time to time determine. A copy will be furnished at the same time to the HEA.

- **Publication of Annual Financial Statement Report:** The TU should publish (or where publication is not required, submit to the Government) its Annual Financial Statement Report **not later than one month** following completion of the audit of the financial statements of the TUs by the C&AG.
- **Board Fees:** In the interests of transparency and good governance, the TUs are required to publish in their annual report and the Annual Financial Statement Report details of non-salary-related fees paid in respect of Governing Body members analysed by category of fees, and the salary of the President.
- **Board Meetings and Attendance:** The number of meetings of the Governing Body and its committees and the attendance of each Governing Body member at Governing Body meetings should be reported in the annual report and in the Annual Financial Statement Report.
- **Disclosure of Key Management Personnel Compensation:** The TUs should disclose in their Annual Financial Statement Report aggregate details of the salary scale of their executive members analysed by the following categories:
 - a. Salaries and short-term employee benefits by reference to salary grades
 - b. Post-employment benefits; and
 - c. Termination benefits;

A TU shall also disclose key management personnel compensation in total. Compensation includes all employee benefits.

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any Governing Body members (whether executive or otherwise) of that entity who report directly to President. This would normally be the senior leadership team of the TU.

The following arrangements should also apply:

- a) The TU should disclose in their financial statements the aggregate amount of total compensation paid to employees including employee numbers in whole time equivalent format.
 - b) The aggregate total compensation paid to employees should be split between salary, overtime and allowances.
 - c) A separate note on President's salary and benefits (and termination payment if relevant) should also be included.
 - d) A separate note on termination benefits to all staff should be included. President's termination benefits should be kept separate, as set out above.
- **Employee Benefits:** In addition to disclosing the aggregate pay bill and total number of employees, the TUs should publish details of the number of employees whose total employee benefits (excluding employer pension costs) for the reporting period fell within each pay band of €10,000 from €60,000 upwards and an overall figure for total employer pension contributions in their Annual Financial Statement Report.
 - **Pension Liabilities:** The standard conventions setting out how public service superannuation liabilities are reflected should be followed in all cases.
 - **Statement on Internal Control:** The Statement of Internal Control (paragraph 6.5(v)) should be included in the Annual Financial Statement Report of the TU. This statement should be reviewed by the Comptroller and Auditor General to confirm that it reflects the TU's compliance with the requirements of paragraph 6.5(v) and is consistent with the information of which they are aware from their audit work on the financial statements. The Comptroller and Auditor General should include their report on this matter in their audit report on the financial statements.

6.3 Deadlines: Where the audit has been unavoidably delayed and fulfilling the requirements in paragraph 6.2.2 would cause unjustifiable difficulties for the TU, the relevant deadline can be extended, subject to

the consent of the HEA.

6.4 Web Publication: Annual reports should be published on the TU's website.

Additional Reporting Requirements

6.5 Annual Governance Statement: The Chairperson must furnish to the HEA / Minister for FHERIS, in conjunction with the TU's annual report and financial statements, a comprehensive report covering the TU, in a format as agreed annually with the HEA. Please refer to the THEA website for the latest annual reporting requirements for the Annual Governance Statement. At the time this document was updated, the requirements included:

- i) confirming that the *THEA Code of Governance for Technological Universities*, has been adopted and the extent to which the TU is in compliance with the Code;
- ii) outlining all commercially significant developments affecting the TU in the preceding year, including the establishment of subsidiaries or joint ventures and share acquisitions, and major issues likely to arise in the short to medium term;
- iii) providing summary details of all off-balance sheet financial transactions²⁴ of the TU that are not disclosed in the TU's annual report and financial statements, including information on the nature, purpose and financial impact of the off-balance sheet financial transactions. The contents and format of this section of the report should be agreed in advance with the HEA.
- iv) affirming that all appropriate procedures for financial reporting, internal audit, travel, procurement and asset disposals are being carried out;
- v) including a statement on the system of internal control in the format set out in Appendix I and including, in cases where a breach of this system has been identified, an outline of the steps that will be taken to guard against such a breach occurring in future;
- vi) affirming that Codes of Conduct for the Governing Body and employees have been put in place and adhered to;
- vii) affirming that Government policy on the pay of the President and all TU employees is being complied with;
- viii) affirming that the Public Spending Code is being adhered to, where appropriate, including:
 - Guidelines for the Appraisal and Management of Capital;
 - Guidelines on Achieving Value for Money in Public;
- ix) outlining significant post balance sheet events;
- x) confirming that the appropriate requirements of the DPER Public Spending Code are being complied with;
- xi) confirming that procedures are in place for the making of protected disclosures in accordance with section 21(1) of the Protected Disclosures Act 2014 and confirmation that the annual report required under section 22(1) of the Act has been published;
- xii) confirming that Government travel policy requirements are being complied with in all respects;
- xiii) confirming that the TU has complied with its obligations under tax law;
- xiv) confirming that an appropriate child protection policy is in place;
- xv) providing details of/information on legal disputes involving other State bodies;
- xvi) stating that any subsidiary of the TU (or subsidiary thereof) continues to operate solely for the purpose of which it was established, remains and continues to remain in full compliance with the terms and conditions of the consent under which it was established; and details of any shareholdings and interests held by the TU in any companies.

²⁴ As a guide, off-balance sheet transactions are arrangements that give rise, or may give rise, to an asset or liability in excess of €10m, or 2% of the total assets of the company, whichever is the smaller that is not recognised on the State body's own balance sheet (or the State body's consolidated group balance sheet), including, for example, leases, letters of credit, guarantees, derivatives, sale of receivables, debt or debt-like instruments of non-consolidated equity interests or joint ventures.

- xvii)** Outlining details of the engagement and associated costs of external consultancy firms and investigators contracted to carry out investigations and enquiries on internal matters;
- xviii)** Confirming that foundations and trusts (if applicable) have been or will be incorporated into the financial statements of the TU or included as an appendix to the financial statements;
- xix)** Confirming the number of Audit Committee meetings held during the financial year in question and attendance record of members;
- xx)** Confirming that the Governing Body reviews its own performance and that it commissions an external review at the middle and end of each term of the Governing Body. Confirmation should also be provided on when both internal and external reviews were last carried out and when both will be carried out again;
- xxi)** Confirming that the TU has satisfied itself as to the integrity and robustness of any data on student numbers provided to the HEA for the purpose of calculating and allocating the core grant.
- xxii)** Confirming that fees and/or expenses paid to members of Governing Body are in accordance with the guidelines from the Department of Finance;
- xxiii)** Confirming that fees and/or expenses paid to members of Governing Body are presented in the TU's Annual Report;
- xxiv)** A note on the schedule of fees and aggregate expenses payable to external Governing Body members should be included;
- xxv)** Confirmation that an appropriate code of governance is in place in respect of trading subsidiaries (i.e. subsidiaries with annual turnover and employees), with annual statements provided to the Governing Body and the Board has received a formal report of compliance from the Chairperson of the Board of each subsidiary;
- xxvi)** Description of other governance and accountability issues that the TU may wish to bring to the attention of the HEA;
- xxvii)** In the event that the TU fails to comply with any of the above the TU shall report such matters of non-compliance in the Annual Governance Statement and to the HEA providing an explanation for same and stating any corrective action taken or contemplated;
- xxviii)** Confirmation that the TU has an IP policy and a conflict of interest policy published on its website;
- xxix)** Confirming the gender balance of appointments made to the Governing Body in the previous year;
 - Stating where the Governing Body stands vis-à-vis the 40% gender balance requirement;
 - Outlining the key elements of the Governing Body's approach to the promotion of diversity and inclusion and the progress being made in this area, including the approach being pursued to promote gender balance and diversity in Governing Body membership; and
 - In the case of a Governing Body which continues to have either an all-male or all-female membership, affirming the measures being taken to address urgently this situation and to promote better gender balance.
- xxx)** A statement confirming that the TU has applied the institutional processes which will support the achievement of the objectives of the Framework for Promoting Consent and Preventing Sexual Violence in Higher Education.
- xxxi)** A statement affirming that the TU commits to the key characteristics of good research practice set out in the HEA Framework.

6.6 Commercially Sensitive Developments: In line with the HEA Financial Memorandum Requirements, the President of the TU must inform the HEA without delay of any circumstance that is having or is likely to have material adverse effect on the financial position of the TU or its ability to maintain its capacity to deliver relevant education programmes, research and related activities.

The Chairperson should report to the HEA on significant commercially sensitive developments in the preceding 12 months and likely developments for the rest of the year as part of the Annual Governance Statement.

6.7 Subsidiary Reporting: The Chairperson of the Board of each subsidiary should formally report to the Governing Body in a similar manner as the Governing Body Chairperson reports to the Minister for

FHERIS/HEA. This report should be received prior to the main Governing Body reporting.

Reporting requirements for each TU required under (a) the annual financial statement report, (b) the financial statements, and (c) the Annual Governance Statement to the Minister for FHERIS are set out in tabular format in Appendices G, H, and J. Appendix I and K provide templates for the Statement on System of Internal Control and the HEA Financial Memorandum.

Appendix G:	Annual Financial Statement Report
Appendix H:	Financial Statements
Appendix I:	Annual Governance Statement and Statement of Internal Control
Appendix J:	Statement on System of Internal Controls
Appendix K:	HEA Financial Memorandum

7. Risk Management, Internal Control, Internal Audit and Audit and Risk Committees

Guiding Principles

The Governing Body should have formal and transparent arrangements for governance, risk management and internal control and for maintaining an appropriate relationship with the Comptroller and Auditor General, the external auditors.

Risk management and internal control are important and integral parts of a performance management system and crucial to the achievement of outcomes. They consist of an ongoing process designed to identify and address significant risks involved in achieving an entity's outcomes.²⁵

Advising on key risk is a matter for the Governing Body. The Audit and Risk Committee should support the Governing Body in this role.

Legislative References

The relevant legislative provisions for this section are listed below:

Provision	TU Act 2018
Strategic Development Plan	Section 18

Code Provisions

7.1 Risk Management Policy: Each TU should develop a Risk Management Policy and the Governing Body should approve the risk management framework and monitor its effectiveness. The Governing Body should review material risk incidents and note or approve management's actions, as appropriate.

7.2 Risk Management: Key elements of the Governing Body's oversight of risk management include:

- establishing an Audit and Risk Committee to give an independent view in relation to risks and risk management systems;
- making risk management a standing item on the Governing Body meeting agenda;
- advising the Minister for FHERIS of the need to include risk management experience/expertise in the competencies of at least one Governing Body member. Where composition of the Governing Body does not allow for this, expert advice should be sought externally;
- designate a Chief Risk Officer, and provide for a direct reporting line to the Governing Body to

²⁵ "International Framework: Good Governance in the Public Sector" (IFAC/CIPFA, July 2014) page 27

identify, measure and manage risk and promote a risk management culture in the TU;

- approve the risk management policy, set the TU's risk appetite, and approve the risk management plan and risk register at least annually;
- review management reporting on risk management and note/approve actions as appropriate;
- require external review of effectiveness of risk management framework on a periodic basis; and
- confirmation in the Corporate Governance Statement which forms part of the Annual Financial Statement Report that the Governing Body has carried out an assessment of the TU's principal risks, including a description of these risks, where appropriate, and associated mitigation measures or strategies.

Internal Control

- 7.3 Internal Control:** The Governing Body is responsible for ensuring that effective systems of internal control are instituted and implemented in the TU including financial, operational and compliance controls and risk management and the Governing Body should review the effectiveness of these systems annually.

The following are the key internal control procedures designed to provide effective internal control including:

- i) the steps taken to ensure an appropriate control environment (such as clearly defined management responsibilities and evidence of reaction to control failures);
- ii) processes used to identify business risks and to evaluate their financial implications;
- iii) details of the major information systems in place such as budgets, and means of comparing actual results with budgets during the year;
- iv) the procedures for addressing the financial implications of major business risks (such as financial instructions and notes of procedures, delegation practices such as authorisation limits, segregation of duties and methods of preventing and detecting fraud);
- v) the procedures for monitoring the effectiveness of the internal control system which may include: Audit and Risk Committees, management reviews, consultancy, inspection and review studies, the work of internal audit, and quality audit reviews; and
- vi) Confirmation in the annual report that there has been a review of the effectiveness of the system of internal control.

Review of Effectiveness of Internal Control

- 7.4 Effectiveness of Internal Control:** The existence of risk management policies and internal control systems do not on their own constitute effective risk management. Effective and on-going monitoring and review are essential elements of sound systems of risk management and internal control. Reviewing the effectiveness of internal control is an essential part of the Governing Body's responsibilities. The Governing Body is required to form its own view on effectiveness of internal control systems based on the information and assurances provided.

- 7.5 Annual Review of Effectiveness of Internal Control:** The Governing Body should undertake an annual review of the effectiveness of internal control systems to ensure that it has considered all aspects of risk management and internal control for the year under review and up to the date of approval of the annual

report and financial statements.

The annual review of effectiveness should consider the following²⁶:

- changes since the last review in the nature and extent of significant risks and the ability of the TU to respond effectively to changes in its business and external environment;
- the scope and quality of management's ongoing monitoring of risks and the system of internal control and, where applicable, the work of its internal audit unit and other providers of assurance
- the extent and frequency of the communication of the results of the monitoring to the Governing Body, or its committees, which enables it to build up a cumulative assessment of the state of control in the TU and the effectiveness with which risk is being managed;
- the incidence of significant control failings or weaknesses that have been identified at any time during the period and the extent to which they have resulted in unforeseen outcomes or contingencies that have had, could have had, or may in the future have, a material impact on the TU's financial performance or condition; and
- the effectiveness of the TU's public reporting process.

The annual review of effectiveness should conclude on the extent to which controls are adequate, and were operating and should outline actions required to address any deficiencies arising.

7.6 Timely Completion of Review: Timely completion of the annual review is critical if it is to fulfil its objectives of providing assurance in relation to the operation of controls in the reporting period. The annual review should be conducted close to the end of the period under review or as soon as possible after the end of the financial period under review, and no later than three months after the period end.

Internal Audit

Principle

Internal auditing is an independent, objective, assurance and consulting activity designed to add value and improve the Universities' operations. It helps the TU to accomplish their objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.²⁷

Code Provisions

7.7 Internal Audit Unit: Each TU should have a properly constituted independent internal audit unit or engage appropriate external expertise which should operate in accordance with the provisions set out below. The current arrangement is a sectoral collaboration arranged through THEA, on the appointment of an appropriately qualified professional services firm to provide internal audit services through a public procurement process.

²⁶ Adapted from "Internal Control: Revised Guidance for Directors on the Combined Code" (FRC, October 2005) paragraph 31

²⁷ Definition from the Institute of Internal Auditors UK and Ireland (<http://www.theiia.org/guidance/standards-and-guidance/ippf/definition-of-internal-auditing/?search%C2%BCdefinition>)

7.8 Independence: The internal audit unit shall be independent of the activities it audits. This is to provide it with an environment in which it can make unbiased judgements and provide impartial advice to management.

7.9 Internal Audit Universe: The internal audit unit should have the right to review all the management and control systems both financial and operational. The internal audit unit shall have unrestricted access to all functional areas, records (both manual and electronic), property, and personnel in the performance of its audits.

Specifically, the internal audit unit shall be responsible for the effective review of both internal control and risk management of the TU and its subsidiaries unless otherwise directed by the TU.

7.10 Annual Programme of Audits: The head of the internal audit unit shall be responsible for drawing up an annual programme of audits having regard to the organisation's Statement of Strategy and Risk Management policy in consultation with the Audit and Risk Committee.

The internal audit unit shall demonstrate objectivity, comprehensiveness and relevance to management, the Audit and Risk Committee and the Board in respect of the areas to be audited and the respective priorities for these audits within the programme.

The existence of the internal audit unit does not relieve line management of its responsibility for effective control of the activities for which it is responsible.

7.11 The internal audit unit shall function professionally, adhering to the Code of Ethics and International Standards of the Institute of Internal Auditors or equivalent professional standards.

The operation of the internal audit unit should follow the principles below:

- i) **Charter:** The internal audit unit should have a formal charter, which has been approved by the Governing Body. The reporting structure for internal audit should be clear and formally documented.
- ii) **Head of Internal Audit:** The head of the internal audit unit should have considerable seniority within the TU and the content of all internal audit reports should be entirely at their discretion. The head of internal audit should report directly to the Audit and Risk Committee and should also have access to the Chairperson of the Governing Body and the Chairperson of the Audit and Risk Committee. Functionally, the head of internal audit should report within the TU to such person as the Governing Body decides and to the President.
- iii) **Compliance Tests:** In carrying out its on-going work, the internal audit unit should assess, using a risk-based approach, the areas within its terms of reference (as set out in the audit charter), and report its findings to the Audit and Risk Committee.
- iv) **Resources:** The internal audit unit should be appropriately resourced consistent with its responsibilities under this Code with the necessary skills including the ability to deal with non-financial aspects.
- v) **Comptroller and Auditor General and Internal Audit:** The internal audit unit should liaise with the Comptroller and Auditor General so that the potential for co-operation between the two is maximised. The work carried out by these two entities can frequently be complementary and effectiveness can be increased through regular consultation.

- vi) **Value for Money Auditing:** In planning, executing and reporting its work, the internal audit unit should ensure that value-for-money auditing receives adequate attention based on the principles and provisions of the Public Spending Code, where relevant.
- vii) **Procurement and Disposal:** The internal audit unit in each TU should review compliance with procurement and disposal procedures as required by the Audit and Risk Committee, from time to time, and report to the Audit and Risk Committee on these matters.

Appendix E: Model Internal Audit Activity Charter

Audit and Risk Committee

Code Provisions

- 7.12 Audit and Risk Committee:** The Governing Body of the TU should establish an Audit and Risk Committee of, at least three, independent non-executive members, with written terms of reference which deal clearly with its authority and duties.

It is recommended for an Audit and Risk Committee to have members drawn from outside the Governing Body. An Audit and Risk Committee is more likely to have the broad range of skills and experience necessary where its membership is not restricted to the Governing Body. The Audit and Risk Committee may procure specialist skills and specialist advice at a particular time at reasonable and approved expense to the organisation to assist the committee with specific areas of committee business.

In general, the Audit and Risk Committees should be combined. However, for complex and large entities there may be a requirement for a separate Audit Committee and Risk Committee.

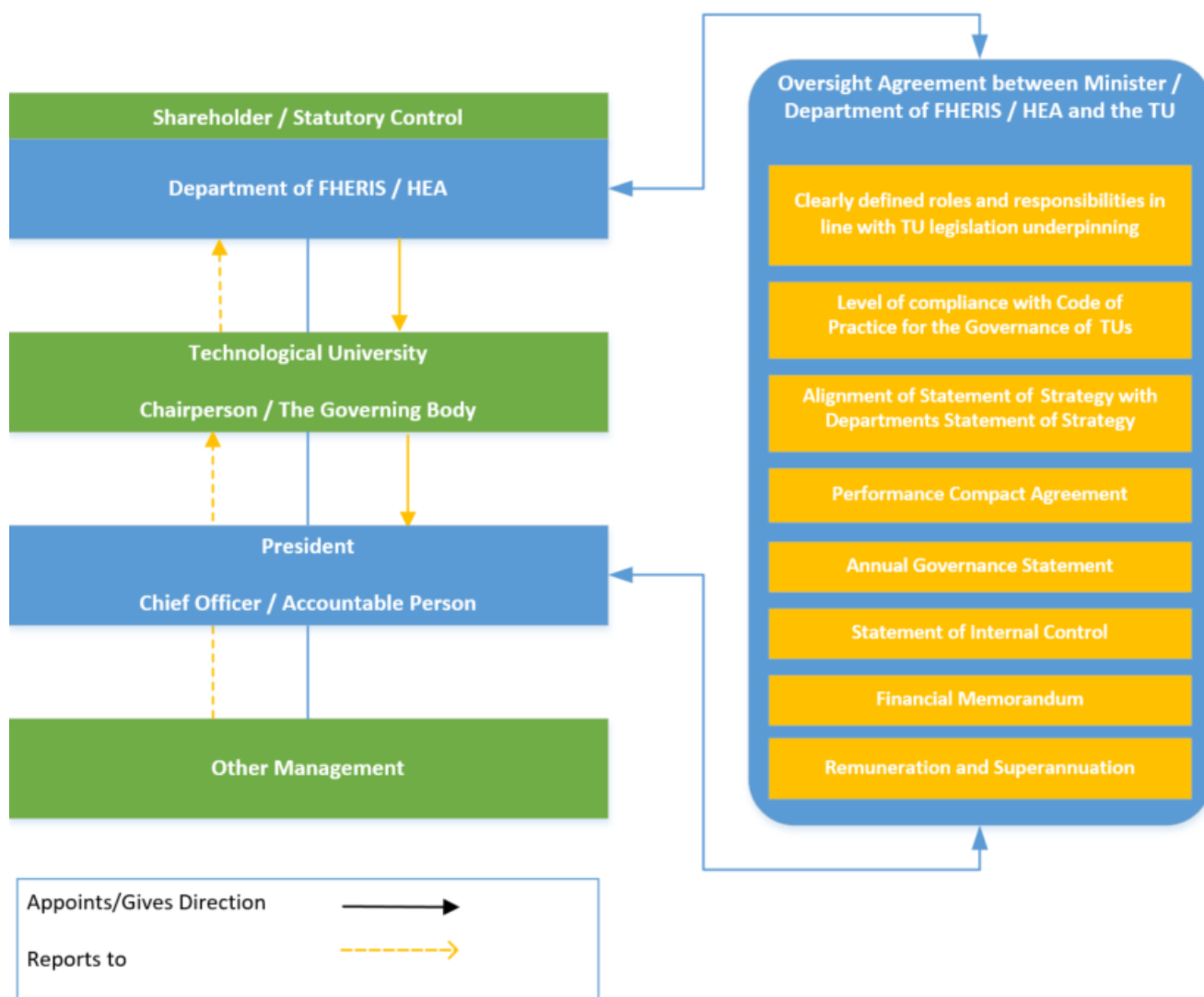
Furthermore, the Chair of the Audit Committee / Audit and Risk Committee should be a member of the Governing Body. However, in exceptional circumstances this requirement may be relaxed.

The Audit and Risk Committee should have oversight of activities as set out in its Terms of Reference. This should include the TU's subsidiary companies unless the subsidiary has its own Audit and Risk Committee in place.

The Audit and Risk Committee Guidance associated with this Code is contained in Appendix M.

8 Relations with the Óireachtas, Minister and Department of Further and Higher Education, Research, Innovation and Science and HEA

Department Oversight Role



The Minister / Department for FHERIS / HEA should have written oversight arrangements with the TU appropriate to the scale, nature, responsibilities and functions of the TU.

The oversight agreement is a written statement between the Minister / Department for FHERIS / HEA and the TU which clearly defines the terms of the Minister's / Department's / HEA's relationship with the TU. The oversight agreement is signed by the Chairperson of the Governing Body and the President of the TU.

Guiding Principles

Good governance in the public sector is to ensure that entities achieve their intended outcomes as defined in their governing legislation and Statements of Strategy while acting in the public interest. This requires effective arrangements for defining outcomes in terms of sustainable economic, social, and environmental benefits which should be included in the TU's oversight agreement with the Minister/Department of FHERIS and Science / HEA.²⁸

Good governance requires effective procedures for the definition of responsibility and accountability, allocation of budgets, defining expected outputs and outcomes and clear procedures for monitoring performance.

The Department of FHERIS / HEA should have a written oversight agreement with the TU. Any TU having derogations from provisions of this Code should have such explanatory notes written into their oversight agreements. Reasons for exemptions should be clearly explained in the oversight agreement with the Minister/Department for FHERIS/HEA.

There should be an ongoing dialogue between the Department of FHERIS / HEA and the TU based on a common understanding of the objectives of the TU and the actions through which it seeks to achieve those objectives.

Legislative References

The relevant legislative provisions for this section are listed below:

Provision	TU Act 2018
Functions of Technological University	Section 9

Code Provisions

The statutory basis for Irish TUs set out in legislation defines the parameters for the level of operational autonomy and independence under which each TU operates in pursuit of its objectives. Irrespective of the degree of autonomy and independence applying to any TU, it must be subject to sufficient oversight and accountability to ensure that it is performing effectively and delivering its objectives to ensure that public resources are used efficiently and effectively.

The TU has a certain functional independency under the TU Act (refer to Section 9). Functional independence can be achieved and is fully compatible with statutory and financial oversight by the Minister / Department for FHERIS and with proper and effective accountability. Effective accountability is strongly dependent on establishing clearly defined roles and responsibilities in accordance with the State bodies governing legislation which are clearly understood and observed in practice by both parties.

²⁸ "International Framework: Good Governance in the Public Sector" (IFAC/CIPFA, July 2014) page 10

Parent Department Oversight Role

- 8.1 Comply or Explain:** The TU and their subsidiaries are required to confirm to the HEA and Minister for FHERIS that they and their subsidiaries comply with this Code in their governance, practices and procedures. To facilitate the TU to make this statement, subsidiaries will need to provide an annual confirmation that they comply with the THEA Code of Governance of Subsidiary Companies.

The THEA Code of Governance of Subsidiary Companies makes provision for certain requirements to be applied proportionately, subject to the written agreement of the Minister/Department/HEA. In such cases, the TU should reach agreement with the Minister/Department/HEA on the extent to which the compliance requirement might be suitably adapted in their case. The TU should then note the agreement reached in its annual report and explain whether the requirements are to be phased-in over a longer period of time, or otherwise varied in some way.

Oversight Agreements

- 8.2 Oversight Agreements:** The Department of FHERIS and the HEA should ensure that they have written oversight agreements with the TU which clearly define the terms of the TU's relationship with the Minister/Department for FHERIS and the HEA.

- 8.3 The Oversight agreements in place with the TUs comprise:**

- 1) **Performance Compacts:** The National Strategy for Higher Education performance-based framework for the system governance of higher education in Ireland sets out the areas of responsibility for setting national priorities of Government and related short to medium term objectives for the higher education system. The HEA mandate encompasses the responsibility to create a well-coordinated system of higher education institutions which is capable in its totality of delivering on national objectives set for the system by the Minister.

This aspect of the role requires the HEA:

- To focus on outputs and the performance of each TU and the higher education system as a whole;
- To negotiate a performance compact with each TU reflecting its distinct mission;
- To monitor performance against agreed deliverables; and
- To provide funding based on performance.

The HEA utilises this framework as the context for conducting a process of strategic dialogue with individual TUs where they will agree performance compacts with the HEA with TU key performance indicators reflecting their contribution to overall system objectives.

Performance against the compacts is monitored via a system of annual reporting and the strategic dialogue process, whereby the HEA meets with each individual TU to review performance and confirm good ongoing governance and accountability of the public funding distributed in each case.

- 2) **Annual Governance Statement:** TUs are required to submit an Annual Governance Statement to the HEA in accordance with the specific reporting requirements set out in section 6 of this Code. The statement includes items such as affirmation that Government policy is being complied with, significant post balance sheet events, a statement on the system of internal control and an outline of all commercially significant developments affecting the TU in the preceding year. The statement must be submitted to the HEA within 6 months of completion of the financial year. In addition, TUs are expected to flag all major governance issues to the HEA on an ongoing basis. The template statement for TUs is set out as Appendix I and Appendix J.
- 3) **Financial Memorandum:** The ongoing responsibilities and arrangements between the HEA and the TU are set out in a financial memorandum which is signed by each TU on an annual basis (See Appendix K). The financial memorandum requires:
 - Agreement on budgets and financial plans
 - Provision of required Recurrent Grant Allocation Model (RGAM) returns
 - Compliance with public pay policy
 - Adherence to the borrowing and departures frameworks (if applicable)
 - Compliance with public sector capital expenditure requirements
 - Compliance with public sector procurement requirements
 - Compliance with the process for land purchases

8.4 Oversight agreements should reflect the:

- legal framework of the TU;
- environment in which it operates;
- purpose and responsibilities of the TU;
- TU's level of compliance with the Code;
- details of the Performance Delivery Agreement; and
- arrangements for oversight, monitoring and reporting on conformity with the oversight agreement including those actions and areas of expenditure where prior sanction from the Minister / Department of FHERIS, the HEA and/or the DPER is required. Absent clear authority to make payments, a TU should seek prior sanction from the Department of FHERIS.

The TU should not enter into confidentiality agreements which preclude it from disclosing details of the settlement reached in the financial statements, save in exceptional circumstances and on foot of legal advice that they are necessary in the circumstances of the case. When, in those circumstances, confidentiality agreements are entered into, parties to the agreements should be given prior notice that they may be subject to disclosure in any case where an overriding public interest is identified or when required by law.

The oversight agreement should be a dynamic document insofar as it should be modified in light of changing circumstances. The oversight agreement should be reviewed annually and updated as required.

Roles and Responsibilities

- 8.5 **Roles:** It is recommended that the Department of FHERIS sets out in writing the respective roles and responsibilities of its Accounting Officer, as well as the Chairperson of the Governing Body and the President of the TU. The roles and responsibilities of the Chairperson of Governing Body and the President of the TU are set out in the TU Act.

- 8.6 Accounting Officer:** The Accounting Officer of the Department of FHERIS should satisfy him/herself that the requirements of this Code are being properly implemented and observed. In support of this role, the Accounting Officer or the Department may also request further information/evidence that the TU is in compliance with the Code and the TU should comply with all such reasonable requests.

If information available to the Department indicates to the Accounting Officer that problems or difficulties exist, the Accounting Officer should ensure that appropriate action is taken as soon as possible.

- 8.7 Accountable Person:** Under Paragraph 9(1) of Schedule 2 of the TU Act, the President is the “Accountable Person” to the Óireachtas and their accountability to the Óireachtas should be differentiated from the general responsibility to the Governing Body.

The System Performance Framework

The TU should agree Performance Delivery Agreements with the HEA on behalf of the Minister for FHERIS and report on progress against targets to the HEA and Minister. These agreements will act as a performance contract between the Department of FHERIS and the TU in which an agreed level of performance / service is formalised and which will ultimately result in improved efficiency and effectiveness in the delivery of educational services.

The agreements allow for the adoption of both annual and multi-annual targets, and the development of output and outcome indicators, including milestones to measure performance against targets.

The system performance framework defined by the Minister for FHERIS, is the anchor document to the content and objectives of the Performance Delivery Agreement taking account of the TU’s legal framework. The performance compact agreed between the HEA and the TU aligned to specific objectives in the Department of FHERIS’ System Performance Framework, and consistent with the TU’s legal mandate, and with any Government policies for the reform and modernisation of the Education Sector.

The Governing Body of the TU should ensure that this Performance Delivery Agreement and the TU’s Statement of Strategy are communicated to all employees and that they have a clear understanding of their role in achieving these objectives.

- 8.8 Performance Delivery Agreements:** The Strategic Dialogue process, Performance Compact and Financial Memorandum outlined in section 8.3 of this Code together with the system of multi-annual budgeting and management reporting constitute the performance delivery agreement between the HEA and with the TU, and include:

- high level goals and objectives;
- identify the key programmes of activity for the TU including for each individual expenditure programme;
- set out the key outputs specified in quantitative, measurable terms;
- identify the targets for that output in annual and multi annual targets with clear milestones;
- identify the cost of delivery of that programmes of activity; and
- set out the process for the formal review of the performance agreement.

- 8.9 High Level Goals and Objectives:** In stating High Level Goals and Objectives, the Performance Delivery Agreements in aggregate:

- set out relevant, quantitative metrics of impacts and/or results that will support examination of the effectiveness of the programme; and

- include annual and multi-annual targets that set out clear milestones to measure progress toward a goal.

8.10 Key Outputs: In stating Key Outputs, the Performance Delivery Agreement will:

- set out relevant, quantitative metrics of outputs that will support examination of the efficiency of the programme; and
- include annual and multi-annual targets that set out clear milestones to measure delivery.

8.11 Review of Performance Delivery Agreement: There should be at least one formal meeting per annum between the HEA and the Chairperson or non-executive nominees of the Governing Body and top management of the TU to review the Performance Delivery Agreement and to strengthen the relationship between the two organisations.

Periodic Critical Review

8.12 Periodic Critical Review: The System Performance Framework and the associated strategic compact and dialogue process agreed with the HEA outlined in section 8.3. of this Code, provides a system of periodic critical review over a cycle of four years. This includes annual system performance reporting to the Minister for FHERIS and review of overall achievement of objectives and targets at the end of each four-year period.

The periodic critical reviews themselves should be:

- **Proportionate.** Reviews must not be overly bureaucratic, administratively burdensome and should be appropriate for the size of the TU.
- **Timely.** Reviews should be completed quickly in order to minimise disruption and reduce uncertainty about the TU's future.
- **Challenging.** Reviews should be robust and rigorous and examine and evaluate as wide a range as possible of delivery options.
- **Open and Inclusive.** Key stakeholders should have the opportunity to contribute to reviews.
- **Transparent.** Reviews should be routinely published.

Procedures for Procurement

Code Provisions

- 8.13 Public Procurement:** It is the responsibility of the Governing Body to satisfy itself that the requirements for public procurement are adhered to and to be fully conversant with the current value thresholds for the application of EU and national procurement rules.

The Governing Body should satisfy itself that procurement policies and procedures have been developed and published to all staff. It should also ensure that procedures are in place to detect non-compliance (refer to glossary for definition) with procurement procedures. The TU should have a contract database/listing for all contracts/payments in excess of €25,000 with monitoring systems in place to flag non-competitive procurement. Non-competitive procurement (refer to glossary for definition) should be reported to the HEA in the Annual Governance Statement and Statement of Internal Control.

- 8.14 Procedures:** Similarly, the Governing Body should ensure that competitive tendering should be standard procedure in the procurement process of the TU. Management, and ultimately the Governing Body, should ensure that there is an appropriate focus on good practice in purchasing and that procedures are in place to ensure compliance with procurement policy and guidelines.

- 8.15 Legal Obligations:** EU Directives and national regulations impose legal obligations on public bodies in regard to advertising and the use of objective tendering procedures for awarding contracts above certain value thresholds. Even in the case of procurement which might not be subject to the full scope of EU Directives, such as certain 'non-priority' services or service concessions, the EU Commission and European Court of Justice have ruled that EU Treaty principles must be observed.

- 8.16 EU Treaty Principles:** The essential Treaty principles include non-discrimination, equal treatment, transparency, mutual recognition, proportionality, freedom to provide service and freedom of establishment. There is a strongly implied requirement to publicise contracts of significant value to a degree which allows parties in other Member States the opportunity to express an interest or to submit tenders.

- 8.17 Corporate Procurement Plan:** The Office of Government Procurement Policy framework requires that all non-commercial State bodies, including the TUs, complete a Corporate Procurement Plan. This plan is underpinned by analysis of expenditure on procurement and the procurement and purchasing structures in the organisation. The plan should set practical and strategic aims, objectives for improved procurement outcomes and appropriate measures to achieve these aims should be implemented.

The Chairperson should affirm adherence to the relevant procurement policy and procedures and the development and implementation of the Corporate Procurement Plan in the Annual Governance Statement.

- 8.18 Procurement Information:** Information on procurement policy and general guidance on procurement matters is published by the Office of Government Procurement. This can be viewed or downloaded from the Office of Government Procurement website.

Property Acquisition and Disposal of Surplus Property

Code Provisions

- 8.19 Acquisition or Disposal of Assets:** The Chairperson of the Governing Body should seek the approval of the HEA/ Minister for FHERIS and the Minister for PER in advance of any material acquisition or disposal of land, buildings or other material assets proposed by the TU. This also includes long term leases or purchase of right to use (rather than own) an asset.
- 8.20 Circulars and Guidelines:** In addition to any specific guidelines which apply to the TU, all acquisitions, disposals or proposals to share property should be conducted in accordance with current Department of PER circulars and guidelines as follows:
- [11/2015 – Protocols for the Transfer and Sharing of State Property Assets](#);
 - [17/2016 – Policy for Property Acquisition and for Disposal of Surplus Property](#); and
 - [02/2016 – Arrangements for Digital and ICT-related Expenditure in the Civil and Public Service](#).

Department of PER Circular 02/2016 must be complied with by TUs considering expenditure on IT and telecommunications projects, systems and infrastructures.

Acquisition of Land, Buildings or other Material Assets

The TU shall be a body corporate with perpetual succession and shall have the power to sue, and may be sued, in its corporate name and may, with the consent of the Minister for FERIS and the Minister for PER, acquire, hold and dispose of land, an interest in land or any other property.

- 8.21 Procedures:** In addition to the requirements set out in DPER circulars, as amended from time to time, the following procedures should apply:
- (i) Independent Valuation:** Where land or property is being considered for acquisition an independent valuation must be obtained. These valuations should be obtained before any decision is taken by the Governing Body to purchase/acquire or sell/dispose lands. The valuations should be obtained from professional property valuation surveyors.
 - (ii) Listing of Parties to Transaction:** All parties to land and property transactions should be clearly reported to the Governing Body when transactions are being considered. Any Governing Body resolution related to the purchase of land or property should state the party or parties the asset is being purchased from.
 - (iii) Options by Others to Purchase:** Where a third-party developer has obtained an option to purchase

land and is selling this option to the TU any profit margin, where it can be determined, being charged by the developer should be reported to the Governing Body.

- (iv) **Board Resolutions:** Any Governing Body resolutions regarding the purchase or sale of an asset should state the price the asset has been purchased or sold for.
- (v) **Transparency:** Purchase of land or property should be conducted in as transparent a manner as possible without compromising the negotiating position of the TU.
- (vi) **Due diligence:** A full due diligence report should be prepared for land or property that are being considered for acquisition.
- (vii) **Nominated Staff Member:** A staff member should be nominated to have responsibility for the acquisition, management and sale of land or property. This staff member should report directly to the President regarding property issues.
- (viii) **Legal Matters:** When dealing with the acquisition or sale of land or property there should be an active engagement with the solicitors involved and the nominated staff member shall ensure that the commercial and technical aspects of the transaction are fully addressed.
- (ix) **Title Registration:** There should be a planned follow up with the solicitors involved to ensure that the title to any land or property acquired are properly registered with the Property Registration Authority.
- (x) **Legal Obligations:** There should be a planned follow up to ensure that any undertakings, obligations and other matters are completed following the acquisition or sale of land or property. The TU should instigate periodic (depending on the size of the property portfolio) reviews with their solicitor(s), and any internal staff dealing with property management, to audit the current status of title registration, way leave agreements, leases, bonds, planning permissions and any other matters which affect their property portfolios.

Capital Investment Appraisal

The Public Spending Code: [The Public Spending Code](#) is the comprehensive set of expenditure appraisal and value for money requirements and related guidance covering all public expenditure.

- 8.22** The Governing Body should ensure that robust and effective systems and procedures are in place in the TU to ensure compliance as appropriate, with the relevant principles, requirements and guidelines of the Public Spending Code. The Chairperson of each TU should confirm in the Annual Governance Statement that the TU is adhering to the relevant aspects of the Public Spending Code.
- 8.23** **Investment Appraisal:** In addition, the Governing Body should ensure that the TU should have regard to appropriate models for investment appraisal in their sectors and seek to apply the best practice financial and economic appraisal principles contained in the Public Spending Code for the appraisal and management of all investment proposals.

Diversification, Establishment of Subsidiaries and Acquisitions by the TU

8.24 Governing Body and Ministerial Approval: The Chairperson should seek the consent of the Minister for FHERIS, together with the consent of the Minister for PER for any intended action which would extend or change significantly the nature, scope or scale of the activities in which it (or any subsidiary) engages (including through any joint venture). This provision requires Ministerial consent for any significant change in the (agreed) scope or function of the TU. Any intended action covers anything that the TU may be contemplating doing that would involve it straying (significantly) into a new area which it had never envisaged that it would be involved in or significantly changing the scale of its operations.

The financial consequences of such actions and their consistency with the existing remit of the TU (if any), notably its statutory remit, should be clearly set out by the Governing Body.

Establishment of TU Subsidiaries

The business case for establishing a TU subsidiary should be produced by the TU executive for approval by the Governing Body. The business case should include both the financial and non-financial rationale for setting up the subsidiary.

Good governance in the public sector is to ensure that entities achieve their intended outcomes as defined in their governing legislation and Statements of Strategy while acting in the public interest. This requires effective arrangements for defining outcomes in terms of sustainable economic, social, and environmental benefits which should be included in the subsidiary's oversight agreement with the FHERIS / parent organisation.

When registered, the Constitution of the subsidiary company and the regulations therein, binds the company, its directors and members in the manner of a contract.

The objects clause, as contained in the Memorandum part of the Constitution sets out the principal activities the subsidiary can undertake. These objects are those activities that the subsidiary company was set up to achieve but in addition to the company's stated objects, the objects clause will also usually contain additional powers which may be used in order for the company to attain those objects.

Where a subsidiary company is set up specially to undertake a capital project, it is important that the responsibilities of the parent organisation are not diluted. (PSC 2013 Section A-02, Sponsoring Agency, pg. 15, Paragraph 2.)

The selection of and the appointment of directors to the new subsidiary company's Board is to be agreed by the Governing Body. The executive may make recommendations to the Governing Body.

8.25 Subsidiaries: The establishment or acquisition of subsidiaries is subject to the legal capacity to do so and requires appropriate approval.

Provision	TU Act 2018
Power to establish, or acquire, hold or dispose of shares in, companies	Section 25

To establish a subsidiary company or acquire shares, under the TU Act, the consent of the Minister for FHERIS and the Minister for PER is required.

For subsidiaries, joint ventures and the acquisition of shares by a TU that meet the requirements of Section 25 of the TU Act i.e. if the objects of the company or undertaking include the carrying on of such business, trading or other activities, as the TU thinks fit, for the purpose of promoting or assisting in the performance of, or in connection with, the functions of the college”, then Governing Body approval only is required.

For all other subsidiaries, joint ventures and the acquisition of shares by a TU, by its subsidiaries or by joint ventures in which either a State body or its subsidiaries participate (“TU joint ventures”) is subject to the legal capacity to do so and, in respect of a TU and its subsidiaries, to the prior written approval of the relevant Minister, given with the consent of the Minister for PER. If a TU or its subsidiaries plans a shareholding offering or to acquire shares the offer/application must refer expressly to such legal capacity and approval requirements.

The TU shall set up a limited liability company either in or outside the State to acquire, hold or dispose of shares or other interests in its capital.

Following the formation of a limited liability company, the TU shall either alone or jointly with another person be authorised to acquire, hold or dispose of shares or any interest in the company.

8.26 Ministerial Approval: The Ministerial consent requirements applicable to a TU joint venture should be considered and determined at the time of consideration and approval of the formation of the joint venture in the first instance.

8.27 Approval Process: When seeking such approval, the Chairperson should supply the Minister for FHERIS with complete details of such proposed subsidiaries, joint ventures or acquisitions and should do so at the earliest opportunity in order to avoid delays. The Minister should respond to the Chairperson in a timely manner.

8.28 Details: Such details should include, the following (which is not an exhaustive list) together with such other information as may be requested:

- the full business case for the proposal;
- cash flows and projections;
- risk analysis of proposal;
- the amount of share capital proposed to be acquired compared with the entire issued share capital of the company concerned;
- details of any shares held in such company by any other State body, its subsidiaries or State body joint ventures;
- data on the financial commitment and exposure of the parent body, whether by way of equity, loans, guarantee or otherwise;
- other potential liabilities that may have a negative impact on the company;
- outstanding borrowings of such company from all sources, whether guaranteed or not, and any commitments by them which could involve financial exposure for the TU; and
- in seeking approval for the establishment or acquisition of subsidiaries, the proposed approach to the remuneration and conditions of employment of the CEO/Managing Director and, where appropriate, other employees of the subsidiaries should be outlined.

8.29 Shareholdings (30%+): Where a TU, their subsidiaries and/or any TU’s joint ventures have a combined holding in any company exceeding 30% of the entire issued share capital of such company, the TU should notify the Minister for FHERIS and the Minister for PER of such shareholdings.

8.30 Borrowing Limits: Section 21 of the TU Act 2018 provides:

- (1) *Subject to subsection (2), a technological university, or any company in which the technological university has a proprietary interest, may borrow money by means of a bank overdraft or otherwise and may guarantee or underwrite a loan taken or borrowing undertaken by any person.*

- (2) *An tÚdarás shall, from time to time with the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform and the Minister for Finance, make rules to be complied with by a technological university in relation to any borrowing, guaranteeing or underwriting under subsection (1) and any such rules, which may be amended in like manner to which they are made, shall include rules relating to—*
 - (a) *the purposes for which any proposed borrowing, guaranteeing or underwriting may be undertaken by a technological university,*
 - (b) *the demonstration by a technological university of its ability to meet the costs arising from any such borrowing, guaranteeing or underwriting,*
 - (c) *the identification of the potential for any such proposed borrowing, guaranteeing or underwriting to give rise to additional costs for the State,*
 - (d) *the requirement for a technological university to obtain the prior approval of An tÚdarás, which approval shall be subject to the consent of the Minister and which consent is subject to the prior consent of the Minister for Public Expenditure and Reform and the Minister for Finance, before borrowing, guaranteeing or underwriting,*
 - (e) *the provision by a technological university to An tÚdarás of information relating to any borrowing, guaranteeing or underwriting undertaken under subsection (1), and*
 - (f) *the requirement to comply with the provisions of section 67 of the Credit Institutions (Stabilisation) Act 2010.*

8.31 State Guarantees: State guarantees cannot be given without explicit statutory authority and may only be given by the Minister for FHERIS with the consent of the Minister for Finance and the Minister for PER. State guarantees may also be subject to approval by the EU Commission under the Treaty rules on State Aid. As a general rule, current policy is not to issue new State guarantees to State bodies due to the potential impact on the State's Balance Sheet and to allow outstanding guarantees to expire as the relevant borrowings are repaid.

Disposal of State Assets

8.32 Disposal: The Governing Body should ensure that arrangements are in place such that the disposal of assets, excluding intellectual property, of the TU or the granting of access to property or infrastructure for commercial arrangements, e.g. joint ventures with third parties, are at a fair market-related price. Disposals or grants of access with an anticipated value at or above a threshold level of €150,000 should be by auction or competitive tendering process, other than in exceptional circumstances. The method used should be both transparent and likely to achieve a fair market-related price. The anticipated value may be determined either by a reserve price recorded in advance in the TU's records or by a formal sign-off by the Governing Body on the advice of the Secretary /Financial Controller or, if delegated by the Governing Body, sign-off by the Secretary/ Financial Controller, that, in its view, the anticipated value is likely to be less or greater than €150,000. Valuations should be carried out by a qualified unconnected valuer.

The disposal or transfer of intellectual property should be undertaken in compliance with each TU's policy on intellectual property and commercialisation.

Compliance with use of Auction or Tendering Requirements

- 8.33 Governing Body Approval - Use of Competitive Process:** If an auction or competitive tendering process takes place and the highest bid is not the bid accepted, then specific Governing Body approval is required before the disposal of the asset or granting of access to property or infrastructure for commercial arrangements with third parties can be completed. The Governing Body must ensure that the provisions of the [EU Commission Communication on State Aid](#) elements in sales of land and buildings by public authorities are complied with fully. Any such approvals together with the reason why a lower bid was permitted to be accepted should be noted in the minutes of the Governing Body.
- 8.34 State Aid:** A measure constituting State aid shall not be implemented before it has been approved by the EU Commission. The EU Commission *Guidance Paper on State aid-compliant financing, restructuring and privatisation of State-owned enterprises* sets out EU State aid rules, which must be complied with when carrying out or financing, restructuring and/or privatisation of State-owned enterprises and provides clarifications on the way the Commission applies the main State aid principles.
- 8.35 Governing Body Approval – Non-Use of Competitive Process:** Where an auction or competitive tendering process is not used and the agreed price is €150,000 or more, then specific Governing Body approval is required before negotiations start and also before the disposal of the asset or granting of access to property or infrastructure for commercial joint venture arrangements with third parties can be completed.
- 8.36 Formal Certification:** No disposal of an asset or grant of access to property or infrastructure for commercial arrangements with third parties should be completed until the officer authorising the disposal or grant of access has certified formally that (i) Governing Body approval is not necessary, with the reasons, or (ii) Governing Body approval, where necessary, has been obtained.
- 8.37 Disposal of Assets to Governing Body Members, Employees or their Families:** Disposal of assets to Governing Body members, employees or their families or connected persons should, as with all disposals, be at a fair market-related price. Where the Governing Body is considering a proposal for any such disposal, the Governing Body member connected to the potential purchase should absent him or herself from the Governing Body deliberations on the issue. A record of all such disposals to such persons (to include details of the asset disposed of, price paid and name of the buyer) should be noted in a register kept for this purpose (minor disposals below €5,000, may be omitted from the register). This register should be available for inspection, if requested, by the Governing Body or by any Governing Body member. The Governing Body may specify that any disposal above an approved threshold should be formally endorsed by the Governing Body who may impose specific restrictions with regard to any such disposal.
- 8.38 Reporting Disposals to the Governing Body:** Details of all disposals of assets or grants of access to property or infrastructure for commercial arrangements with third parties (save for connected third parties which is dealt with in paragraph 8.37) below the threshold value of €150,000 without auction or competitive tendering process should be formally reported to the Governing Body, including the paid

price and the name of the buyer, on an annual basis

- 8.39 Reporting Disposals to the Minister:** Details of and explanations for the disposals of assets or grants of access to property or infrastructure for commercial arrangements with third parties above the threshold of €150,000 which have not been subject to auction or competitive tendering process should be included in the Annual Governance Statement (see paragraph 6.5 of this Code).
- 8.40 Compliance:** The Chairperson should affirm in the Annual Governance Statement, that the disposal procedures, as outlined, have been complied with.

Tax Compliance

- 8.41 Tax Clearance:** It is the responsibility of the Governing Body to satisfy itself that any Tax Clearance requirements regarding the payment of grants, subsidies and similar type payments, and regarding Public Sector Contracts, are fully adhered to. The TU must have a valid tax clearance certificate when a contract is entered into and should maintain a valid tax clearance certificate or, where the contract is a relevant contract²⁹, demonstrate satisfactory subcontractor tax compliance at the time of each payment.
- 8.42 Taxation:** The TU should be exemplary in their compliance with taxation laws and should ensure that all tax liabilities are paid on or before the relevant due dates. The Governing Body must take cognisance of any proposed corporate restructuring plans submitted for their approval and should ensure that they are being undertaken for bona fide commercial reasons and not as part of any tax avoidance scheme.
- 8.43 Tax Avoidance:** The TU while availing of all legitimate taxation arrangements, should not engage in unacceptable tax avoidance transactions. In broad terms, tax avoidance is offensive if it involves the use of the tax code for a purpose other than that intended by the Óireachtas (including an unintended use of a tax incentive) with a view to reducing the amount of tax to be paid by the TU or some other party to a transaction in which the TU participates. Where a doubt arises in a particular instance, the TU should consult the Revenue Commissioners.

Where the approval of the Minister for FHERIS with the consent of the Minister for PER is required under legislation for any financial transaction, the Chairperson should provide confirmation from the Revenue Commissioners that the tax treatment of the financial transaction is compliant with Irish tax law.

- 8.44 Report to Department:** A report on the TU's compliance with tax laws should be furnished each year to the Department of FHERIS / HEA. The report should confirm that the TU has complied with its obligations under tax law.

Legal Disputes Involving Other State Bodies

²⁹ A relevant contract is a contract to carry out, or supply labour for the performance of relevant operations in the construction, forestry or meat processing industry. Source: (<http://www.revenue.ie/en/tax/rct/>)

8.45 Legal Disputes: Where a legal dispute involves another State body, unless otherwise required by statute, every effort should be made to mediate, arbitrate or otherwise resolve before expensive legal costs are incurred. The TU should pursue the most cost-effective course of action in relation to legal disputes.

In addition to the annual reporting requirement concerning details of legal disputes with other State bodies, the TU is required to provide details of such legal disputes involving expenditure of €25,000 or over to the HEA and to the relevant Vote section of the Department for PER, once a year by 30th June of each year including an estimate of the legal costs incurred up to the date of such information.

9 Remuneration and Superannuation

This section addresses the following areas:

- Remuneration and Superannuation
- Fees to Governing Body Members
- Travel and Office Entertainment

Guiding Principles

Chairpersons and the Governing Bodies of the TU are required to implement relevant Government policy, as expressed from time to time, with regard to remuneration of the Governing Body and other staff. This role is essential to maintaining public trust in as well as the credibility and reputation of the TU concerned.

Chairpersons and the Governing Bodies of the TU are required to implement Government policy in relation to the total remuneration package (including basic salary, allowances, and all other benefits in cash or in kind), and in relation to other provisions for superannuation and termination benefits, of the President of the TU.

The Governing Body should adhere to Government policy on the payment arrangements for the President as well as any conditions of sanction issued by the Department of Public Expenditure & Reform and / or the Department of FHERIS.

The TU is required to publish in its Annual Financial Statement Report details of non-salary-related fees paid in respect of the Governing Body, analysed by category. The salary of the President is required to be captured in the notes to the Annual Financial Statements.

Legislative References

The relevant legislative provisions for this section are listed below:

Provision	TU Act 2018
Staff of technological university	Section 14
Superannuation of staff of technological university	Section 15
President of technological university	Schedule 2

Code Provisions

Remuneration and Superannuation

- 9.1** The Chairperson and the Governing Body of every TU are required to implement Government policy in relation to the total remuneration package (including basic salary, allowances, and all other benefits in cash or in kind), and in relation to other provisions for superannuation and termination benefits of the

President of every TU.

- 9.2 Departmental Arrangements:** Arrangements put in place by the Department of FHERIS or the Department of PER for determining and approving the remuneration of the President of the TU should also be adhered to and implemented.
- 9.3 Other Staff:** The Chairperson and the Governing Body are required to implement Government pay policy as expressed from time to time, in relation to other staff including, as appropriate, the President, CEO or equivalent and other staff of any subsidiary, as relevant.
- 9.4 Departmental Consultation:** The Department for PER should be consulted in good time prior to the implementation of any pay proposals, and of any likely developments, which could have significant implications for:
- general Government pay policy;
 - the TU's finances;
 - charges for goods or services provided; and/or
 - other areas of the public sector.
- 9.5 Public Service Standards:** Compliance with Government pay policy or with any particular Government decision should not be effected in ways which cut across public service standards or integrity or conduct or involve unacceptable practices which result in a loss of tax revenue to the Exchequer.
- 9.6 Appointment of the President:** Procedures for the appointment of the President (including a standard employment contract template) are available from the HEA. The Governing Body must seek the approval of the Minister for the duration of the term of office of the President, as per Schedule 2, paragraph 8 of the TU Act 2018.
- 9.7 Single Pension Scheme:** Pension provision for all persons in pensionable posts, including senior management and the President, who are recruited on or after 1 January 2013 shall consist solely of membership of the Single Public Service Pension Scheme. This provision applies in all cases except where exempted under law (Public Service Pensions (Single Scheme and Other Provisions) Act 2012), and notwithstanding the existence in place of any private voluntary pension scheme for staff recruited on or prior to 31 December 2012.

Fees to Governing Body Members

Guiding Principles

As outlined in the Code, Governing Body members play a number of critical roles in setting the strategic direction and overseeing the performance of the TU which are discharging key responsibilities laid down in legislation.

Inherent in the role of Governing Body is that of public value in seeking to ensure that every TU carries out its responsibilities as effectively and efficiently as possible and maximises its contribution to outcomes for citizens.

The reformed system of appointments to State Board highlights the objective to attract high calibre individuals from all walks of life to serve on State Boards. Remuneration arrangements for Governing Body members of the TU reflect the ethos of public value.

Public Servants and Public Sector employees cannot receive fees for their duties as a member of the Governing Body. Therefore, this section in respect of fees is relevant to external members of the Governing Body and the Board of Subsidiaries only.

Code Provisions

9.8 Authorised Fee Levels: In general, for fees to be payable to the Chairperson or members of a Board an enabling provision in the legislation governing the State body concerned is required. Such a provision typically specifies that members may be paid such remuneration (if any) which the relevant Minister, with the consent of the Minister for PER, may determine. Current fee rates for Category 1 - 4 State Boards are available from the Remuneration, Industrial Relations and Pensions Division of the Department of PER.

Schedule 1, 2(2) TU Act 2018 provides that:

There may be paid by the governing body to its members, other than the president, such allowances in respect of expenses (if any) as the Minister with the approval of the Minister for Public Expenditure and Reform, may determine.

9.9 One Person One Salary Rules: Since 1 November 2011 under the One Person One Salary principle it has been a requirement of that principle that public servants and public sector employees who sit on State Boards may not be paid Board fees. The criteria previously used to determine the eligibility of public servants and public sector employees to receive Board/Governing Body fee payments no longer applies in any such cases. This applies to all Governing Body members, including those in place prior to 2011, and also to full-time executive Board members who operate on a salaried basis. The implementation of and adherence to these arrangements is the responsibility of the TU concerned.

9.10 Option to Waive Board Fee: All existing Governing Body members of the TU, and any members that may be appointed in the future to such Governing Bodies, are to be given the option by the Minister for FHERIS to waive the related Governing Body fee on a discretionary basis as a matter of formal protocol. The implementation of the arrangements necessary to ensure adherence to this requirement is a matter for the Department of FHERIS.

- 9.11 Authorised Fee Rates:** The Governing Body of the TU must ensure that the fees paid to the Chairperson and the Governing Body members are at the rates sanctioned and approved by the Minister for PER and that no fees are paid to public servants or public sector employees under the One Person One Salary rules.
- 9.12 PRSI:** In general, fees paid to a Chairperson and Governing Body members of a TU are exempt from PRSI. Such persons are deemed to be Office Holders, provided the TU was created by an Act of the Óireachtas or by statutory regulation and provided the holder of the Office may be removed if the instrument creating the Office authorises it. (Scope Section, Department of Social Protection provides direction and information on the insurability of employment in accordance with law).
- 9.13 Tax:** Governing Body members fees are subject to taxation. The requirements are set out in Statement of Practice SP-IT/1/04 (Revised April 2011) *'Tax Treatment of Remuneration of members of State and State Sponsored Committees, Boards, Commissions and other Bodies'*, available from the Office of the Revenue Commissioners. Any queries in this regard should be directed to the Office of the Revenue Commissioners.
- 9.14 Subsidiaries:** The fees paid to the Chairperson or Board members/Directors of any subsidiary or associated body will not exceed the rates applying to the Chairperson or Governing Body member, respectively, of the TU and will, as a general rule, be significantly less. Any such fees must be at the rates sanctioned and approved by the Minister for PER.
- 9.15 Single Fee:** Only one fee will be payable to a person in respect of (a) service on the main Governing Body of the TU and Boards of subsidiary or associated bodies or (b) service on subsidiary or associated State Boards only.
- 9.16 External Boards:** An executive other than the President of the TU will, subject to Governing Body approval, be allowed to hold membership of the Boards of State funded bodies which are not subsidiary to or associated with the main TU, but may not receive a Board fee under the One Person One Salary rules.
- 9.17 Annual Governance Statement:** As part of the Annual Governance Statement, the Chairperson should affirm that Government Pay Guidelines is being complied with in respect of such appointees who serve on the Governing Body and any subsidiaries of a TU. The Annual Financial Statement Report should also include a schedule of the fees paid to each Governing Body/Board member.

Travel and Official Entertainment

Guiding Principles

The TU should be cognisant of the need to achieve economy and efficiency in expenditure on travel and official entertainment.

Code Provisions

9.18 Travel Circulars: The TU should adopt, and comply in all respects with, the DPER circulars and office notices regarding travel and subsistence, as amended from time to time.

The Governing Body members and employees must claim travel and subsistence only in respect of official business and not personal travel or accommodation and must not make a claim from more than one State body for the same journey. All Travel and Subsistence claims must have a clear stated business purpose.

The Department of PER [Circular 5/2017 Motor Travel Rates](#), [Circular 23/2021: Domestic Subsistence Allowances](#), and [Circular 7/2017 Subsistence Allowances Abroad](#) set out rates of subsistence allowance, which apply where applicable.

9.19 International Travel: A TU that incurs significant expenditure on international travel by employees or members of the Governing Body should put in place appropriate monitoring and control procedures to ensure compliance with relevant Department of PER circulars and requirements.

9.20 Official Entertainment: Department of Finance [Circular 25/2000: Official Entertainment](#) sets out the entertainment allowances, the limits on expenditure on official entertainment, and the numbers that can be accommodated at any given event (dependent on the grade or position of the host).

10 Quality of Service Charter

Principle

In their dealings with the public, the TU should publish a Quality of Service Charter which outlines the nature and quality of service which customers and stakeholders, including learners, can expect.

The remit of the Quality of Service Charter does not extend to issues of quality assurance that are governed by the TU's relationship with QQI and covered by the relevant legislation such as the QQI Act as amended.

Code Provisions

10.1. Quality of Service Charter: The TU should have a quality of service charter setting out the quality of education learners can expect and the level of service the general public and other stakeholders can expect of the organisation.

10.2. Charter Cycle: The 4-step cycle of the quality of service charter involves:

- Consultation with learners and stakeholders;
- Commitment to quality standards;
- Evaluation of performance; and
- Reporting on results

10.3. Display and Content: Quality of service charters should be displayed prominently (on websites and at the points of service). The charter should state the TU's commitment to providing:

- education and services in accordance with the legislative requirements established in the relevant Acts, (specifically the, TU Act, Qualifications and Quality Assurance Act 2012 and associated legislation); and
- the principles of quality assurance and enhancement of academic activities set down by the relevant State quality assurance agencies (specifically, Quality and Qualifications Ireland [QQI]).

In addition, with regard to service provision, the charter should take account of the twelve Principles of Quality Customer Service for Customers and Clients of the Public Service (see Appendix F). The charter should define service standards in clear terms and simple language and should inform students and other stakeholders of contact and feedback mechanisms.

10.4. Action Plan: The charter should be supported by an action plan, which describes in detail how the commitments and standards set out in the charter, and other enhancements, will be delivered and evaluated by the TU.

10.5. Charters and Action Plans: Charters and action plans should be produced as part of the same process and have separate but complementary roles. While the charter is a short, easy to read, accessible document which acts as a public commitment to students and others on what they can expect to receive when dealing with the TU, the action plan is a more detailed document which describes how the charter commitments will be delivered and evaluated by the TU. Both documents should share the same

timeframe (ideally 5 years).

- 10.6. Complaints Procedures:** The TU should have published procedures for the management of complaints both in respect of students and of other stakeholders. Such processes should, where relevant, make reference to the role of Ombudsman and the Ombudsman for children.

Appendix F: Principles of Quality Customer Service for Customers and Clients of the Public Service

11 Charities Governance Code

This is an additional chapter to reflect that the TU is also a Charitable organisation.

The Charities Governance Code is issued by the Charities Regulator under section 14 (1)(i) of the Charities Act 2009 in order to encourage and facilitate the better administration and management of charitable organisations.

The Governing Body in complying with the THEA Code of Governance for Technological Universities complies with the reporting requirements of the Charities Governance Code.

Given the functions of a TU include the provision of education every TU is eligible to be a charity.

Principles

Every Charity must advance its charitable purpose. In the case of higher education institutions, that is the ‘advancement of education’.

Every charity must provide an annual financial report to the Charities Regulator. As part of the annual reporting, it must indicate whether or not the charity complies with the Charities Code or the Governing Body should provide valid reasons for non-compliance. By complying with the THEA Code the TU is deemed to be complying with the Charities Code.

The TU should complete the Compliance Record Form ([Charities Regulator Login](#)); which will form part of the TU’s entry on the Register of Charities. The Compliance Record Form should be completed on an annual basis to record:

- the actions taken to meet each standard of the Charities Governance Code; and
- the evidence that backs this up.

The Governing Body should formally approve the Compliance Record Form at a Governing Body meeting before reporting compliance to the Charities Regulator.

Legislative References

The relevant legislative provisions for this section are listed below:

Provision	Charities Act 2009
Annual Reports	Section 52

Code Principles

11.1 Timeliness of the Annual Financial Statement Report: The Charity Trustees will not later than 10 months after the financial year end submit its Annual Financial Statement Report to the regulator. Please refer to Chapter 6 for clarity and definition of the Annual Financial Statement Report. When submitting the Annual Financial Statement Report to the Charity Regulator, there is a requirement to confirm compliance with the Charities Act 2009.

11.2 Annual Financial Statement Report: The Annual Financial Statement Report (refer to section 6.2) should include the audited Financial Statements for the reporting period including the external auditor report.

11.3 Appointment of Trustees: The Trustees should be three or more members of the Governing Body, (refer to glossary for definition of trustee).

A person cannot be or shall cease to be a Trustee if the person:

- a) Is adjudicated bankrupt;
- b) makes a composition or arrangement with creditors;
- c) is a company that is in the course of being wound up;
- d) is convicted on indictment of an offence;
- e) is sentenced to a term of imprisonment by a court of competent jurisdiction;
- f) is the subject of an order under section 160 of the Companies Act 1990 or is prohibited, removed or suspended from being a trustee of a scheme under the Pensions Acts 1990 to 2008;
- g) has been removed from the position of charity trustee of a charitable organisation by an order of the High Court under section 74 of the Charities Act 2009; and
- h) is remunerated by the TU.

For the avoidance of doubt, all governing body members with the exception of the President, staff members and student members of the TU are deemed to be Trustees for the purposes of the Charities Act 2009.

11.4 Obligation to disclose offences: Under section 59 of the Charities Act 2009, there is an obligation to report any offence that has been or is being committed under the Criminal Justice (Theft and Fraud Offences) Act 2001 to the Charity Regulator.

Glossary

For the purpose of this Code, the terms below shall have the following meaning:

- **Accounting Officer** – the Comptroller and Auditor General (Amendment) Act, 1993 defines an Accounting Officer as “an officer referred to in section 22 of the [Exchequer and Audit Department’s Act of 1866] to whom the duty of preparing the appropriation accounts of a Department is assigned under that section”.
- **Annual Financial Statement Report** – This report includes the following:
 - Corporate Governance Statement;
 - Statement on System of Internal Controls;
 - Report of the Comptroller and Auditor General;
 - Financial Statements
- **Annual Report** – A report detailing the TU’s activities and financial performance during the preceding year, often referred to as the ‘Glossy Report’. It may include the financial statements or an abridged version of same. It should be noted that if the full set of financial statements are included the C&AG must review the report before it is published. It generally also includes reports from those charged with governance (for example, the Chairperson of the Governing Body), a review of the TU’s strategy and performance, information on risk management and governance, alongside other information for stakeholders.
- **Annual Governance Statement** – The Chairperson must furnish to the HEA a comprehensive report covering the governance and compliance matters of the TU, in a format as provided annually by the HEA.
- **C&AG** – Comptroller and Auditor General
- **Charity trustee** – as defined in the Charities Act 2009 includes—
 - (a) in the case of a charitable organisation that is a company, the directors and other officers of the company, and
 - (b) in the case of a charitable organisation that is a body corporate (other than a company) or an unincorporated body of persons, any officer of the body or any person for the time being performing the functions of an officer of the body, and references to a charity trustee of a charitable organisation shall be construed as including references to a trustee of a charitable trust;

For the avoidance of doubt, all governing body members with the exception of the President, staff members and student members of the TU are deemed to be Trustees for the purposes of the Charities Act 2009.

- **CIPFA** – Chartered Institute of Public Finance and Accountancy.
- **Company** – means a company established under the Companies Acts;
- **Conflict of interest** – A conflict of interest is any situation in which a person’s personal interests or loyalties could, or could be seen to, prevent them from making a decision only in the best interests of the TU.
- **Conflict of loyalty** – This means a particular type of conflict of interest, in which a person’s loyalty or duty to another person or organisation could prevent the person from making a decision only in the best interests of the TU.
- **Connected Person**³⁰ – Companies Act 2014, Section 220 specifies that a person is connected with a director of a company if, but only if, the person (not being himself or herself a director of the company) is:
 - a. that director’s spouse, civil partner, parent, brother, sister or child;
 - b. a person acting in his or her capacity as the trustee of any trust, the principal beneficiaries of

³⁰ See Section 220 of the Companies Act, 2014.

- which are that director, the spouse (or civil partner) or any children of that director or any body corporate which that director controls; or
 - c. in partnership with that director.

The term “child” referred to above is deemed to include the child of the director’s civil partner who is ordinarily resident with the director and the civil partner.

- **DPER** – Department of Public Expenditure and Reform
- **Fiduciary Duty** – A legal obligation of one party to act in the best interest of another. The principal fiduciary duties of a company director are set out in section 228 of the Companies Act 2014.
- **Financial Statements** – A formal record of the financial activities and position of the TU for the previous financial year, including disclosures, intended to communicate the TU’s economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework.
- **FHERIS** - Further and Higher Education, Research, Innovation and Science
- **FRC** – Financial Reporting Council (United Kingdom).
- **IFAC** – International Federation of Accountants.
- **Joint Venture** – A joint venture is a business entity created by two or more parties, generally characterised by shared ownership, shared returns and risks, and shared governance
- **Letter of Representation** – Letters of representation are letters from Governing Body members addressed to the Comptroller and Auditor General. The letter makes representations concerning amounts in the financial statements and aspects of the audit. The letter is drafted by the Comptroller and Auditor General at the end of the audit and is submitted to the Governing Body for signature, often by the Chairperson and the President.
- **Management Letter** – Management letters are letters from the Comptroller and Auditor General to management setting out the failings / weaknesses found during the audit. Unless these weaknesses or failings are material, the Comptroller and Auditor General will issue a clean/unqualified/unmodified report. Management are required to prepare responses to the management letter points made. The Audit and Risk Committee needs to oversee implementation of the Comptroller and Auditor General’s management letter recommendations which the Comptroller and Auditor General will follow up on the following year.
- **Non-competitive procurement³¹** - covers all instances where goods or services were procured without a competitive process.
- **Non-compliant procurement³²** - relates to instances where goods or services were procured without a competitive process and the circumstances did not include exceptions allowed under procurement rules e.g. purchases from a sole supplier, force majeure, maintenance contracts tied to a given contractor, etc. In general, this should happen in limited circumstances.
- **OCAG** – Office of the Comptroller and Auditor General
- **ODCE** – Office of the Director of Corporate Enforcement
- **OECD** – Organisation for Economic Co-operation and Development
- **Oversight Agreement** – A written statement between the Minister / Department for FHERIS / HEA and the

³¹ Source: [A Guide to the Implications for the Annual Financial Statements and the Annual Report November 2017](#)

³² Source: [A Guide to the Implications for the Annual Financial Statements and the Annual Report November 2017](#)

TU which clearly defines the terms of the relationship between the Minister / Department for FHERIS / HEA and the TU.

- **Parent Department** – Department of Further and Higher Education, Research, Innovation and Science
- **PER** – Public Expenditure and Reform
- **Performance Delivery Agreement** – An agreement between the Minister / Department for FHERIS and the TU in which an agreed level of service is formalised. A performance delivery agreement comprises part of an oversight agreement.
- **President** – Chief Officer of each TU. For ease of reference the term President (as used in the TU) is used throughout the document.
- **Regulatory Body** – See definition on page 8 of this document.
- **Subsidiary** – A subsidiary is a company that is controlled by the holding or parent company – often indicated by holdings of more than 50% of the voting share capital of the company. A wholly owned subsidiary is 100% owned by a holding or parent company

Appendix A Model Governing Body Standing Orders for Technological University

Note: This is an illustrative example of a model Governing Body standing orders for a TU setting out what typically should be included. The requirements included below are not exhaustive. The Governing Body standing orders should be tailored in accordance with the particular circumstance of the TU.

Introduction

[Entity] is established under the Technological Universities Act 2018.

These Standing Orders are made in accordance with the Schedule 1, Paragraph 11 of the Technological Universities Act, 2018 which provides: “Subject to this Act, the Governing Body shall regulate, by standing orders or otherwise, its procedure and business.”

These Standing Orders approved by the Governing Body on [day month year] are effective from [day month year].

1 Governance

The Technological University shall have a Governing Body to perform the functions of the Technological University under the Technological Universities Act 2018 [Act, Part 2, Chapter 3, Section 11].

2 Arrangements for the First Meeting of the Governing Body

The Minister shall appoint in respect of the first Governing Body of the TU –

- a. A person to be the chairperson,
- b. Two external members, and
- c. One external member nominated by the education and training board or boards in whose education and training board area or areas the campuses of the Technological University are situated [Act, Part 2, Chapter 3, Section 55(2)].

The term of office of a member of the Governing Body of the Technological University mentioned above shall be two years [Act, Part 2, Chapter 3, Section 55(5)(a)].

3 Membership

Governing Body members are appointed in accordance with the Technological Universities Act 2018.

Term of Office of Members

Subject to paragraph 2.2 above, the term of office of a member of the Governing Body, other than the president, shall not exceed [4] years and such a member may not serve more than [2] consecutive terms. A member of the Governing Body who is a registered student at the TU shall hold office for such a period, not exceeding [1] year, as the governing body may determine but may be re-appointed for a further period not exceeding [1] year [Act, Part 2, Chapter 3, Section 12(3)(a)-(b)].

President

The president is a member of the Governing Body [Act, Part 2, Chapter 3, Section 12(1)(a)].

Chairperson

The chairperson of the Governing Body is appointed by the Governing Body. The Governing Body shall also appoint from amongst its members a member (other than the president) to be its deputy chairperson. If at any meeting the chairperson is not present, the deputy-chairperson, if present, shall be the chairperson of the meeting. Should the chairperson and the deputy-chairperson be absent, or should the office of the chairperson be vacant, the members present at the meeting shall choose a member to chair the meeting [Act, Schedule 1, Paragraph 5(4)-(5)].

The Governing Body shall ensure that on appointment to the Governing Body, Governing Body members, excluding the president, receive a formal letter of appointment setting out clearly what is expected of them in terms of time commitment, sub-committee service and involvement outside Governing Body meetings.

Ineligibility and Removal of Members

The Governing Body may at any time remove from office a member of the Governing Body, if, in the opinion of the Governing Body –

- a. The member has become incapable through ill health of performing his or her functions,
- b. The member has committed stated misbehaviour, or
- c. The removal of the member appears to be necessary for the effective performance by the governing body of its function [Act, Schedule 1, Paragraph 3(3)].

Where a member of the Governing Body:

- a. Is adjudicated bankrupt,
- b. Makes a composition or arrangement with creditors,
- c. Is sentenced by a court of competent jurisdiction to a term of imprisonment,
- d. Is convicted of any indictable offence in relation to a company or any other body corporate
- e. Is convicted of an offence involving fraud or dishonesty
- f. Has a declaration under section 819 of the Companies Act 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
- g. Is subject or is deemed to be subject to a disqualification order, within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, whether by virtue of that Chapter or any other provision of that Act he or she shall thereupon cease to be qualified for office and shall cease to hold office [Act, Schedule 1, Paragraph 3(4)].

Where a member of the Governing Body is –

- a. Nominated as a member of Seanad Éireann,
- b. Elected as a member of either House of the Oireachtas or to be a representative in the European Parliament, or
- c. Regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, he or she shall thereupon cease to be a member of the Governing Body [Act, Schedule 1, Paragraph 7].

Filing of Vacancies

If a member of the Governing Body, other than the president, dies, resigns, ceases to be qualified for or ceases to hold office or is removed from office for any reason, the Governing Body may appoint a person to fill the casual vacancy [Act, Schedule 1, Paragraph 4(1)].

A person appointed to be a member of the Governing Body to fill a casual vacancy shall hold office for the remainder of the term of office of the member whose death, resignation, removal from office or ceasing for other reasons to hold office occasioned the casual vacancy and shall be eligible for reappointment as a member of the Governing Body on the expiry of that term of office [Act, Schedule 1, Paragraph 4(2)].

Resignation of Members and Chairperson

A member of the Governing Body, other than the president, may resign from office by giving notice in writing to the chairperson (or if the member concerned is the chairperson, to the president), of his or her resignation and the resignation shall take effect on the day when the chairperson, or as the case may be, president receives the notice [Act, Schedule 1, Paragraph 3(1)].

Where the chairperson of the governing body resigns as chairperson, he or she shall at the same time cease to be a member of the governing body [Act, Schedule 1, Paragraph 3(2)].

4 Secretary of the Governing Body

The Governing Body may appoint a person to the position of Secretary to the Governing Body. The secretary may be assisted in carrying out his or her duties by a recording secretary, who shall not be a member of the Governing Body.

The secretary of the Governing Body will ensure that the Governing Body receives information and papers in a timely manner to enable full and proper consideration to be given to the issues.

The secretary of the Governing Body is also responsible for the formal induction of new members of the Governing Body and organising mentoring for members where required.

5 Governing Body Meetings

Quorum & Decision Making

The quorum necessary for the transaction of business shall be [3], [2] of whom must be external members. For a meeting to take place a quorum must be present, and the meeting must remain quorate for the duration of the meeting. Should a quorum not be reached, the Chairperson shall set a fresh date for the meeting.

The quorum may be amended from time to time in accordance with standing orders under paragraph 12 of the Schedule 1. [Act, Schedule 1, Paragraph 5(3)].

The chairperson shall convene a meeting of the Governing Body when requested to do so by not less than the number of members that constitutes a quorum, or by the president. Normally, the chairperson should give members at least [5] working days' notice in advance of a meeting [Act, Schedule 1, Paragraph 5(2)].

Subject to paragraph 5(7) of the Schedule 1 to the Act, the Governing Body may act notwithstanding one or more than one vacancy among its members.

Every question at a meeting of the Governing Body shall be determined by a majority of the votes of members present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote members shall vote by a show of hands [Act, Schedule 1, Paragraph 5(6)].

The number of votes for and against a motion and the number of abstentions shall be recorded in the minutes. The secretary shall have responsibility for organising and counting the votes.

The chairperson may decide on a secret ballot or a motion to that effect may be put to the meeting by the chairperson or any member present.

Governing Body members are expected to make their best endeavours to attend meetings of the Governing Body in person. It is recognised that this may not always be possible. The Governing Body may make provision for attendance by members by the use of any means of communication by which all the members can hear and be heard at the same time where necessary and available.

The minimum requirement for attendance in this manner is that the member must be audible in the location of the meeting and must be able to hear the proceedings. This is to be referred to as an "electronic meeting" [Act, Schedule 1, Paragraph 5(8)].

A member of the Governing Body who participates in an electronic meeting is taken for all purposes to have been present at the meeting [Act, Schedule 1, Paragraph 5(9)].

Governing Body members attending Governing Body meetings by way of audio and/or video conference links must ensure that no part of the Governing Body discussion or business can be overheard or intruded upon to ensure confidentiality is maintained.

Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda shall be forwarded to each member of the Governing Body and any other person required to attend no later than five working days before the date of the meeting. Supporting papers will be made available electronically to Governing Body members and to other attendees as appropriate.

The Governing Body shall hold at least [6] meetings in every twelve-month period and may hold any number of additional meetings as may be necessary, as determined by the chairperson, for the due fulfilment of its functions. [Act, Schedule 1, Paragraph 5(1)].

An annual schedule of meetings is agreed each year for the period 1 September to 31 August of the following year.

The normal duration of a meeting shall be laid down in the schedule of meetings as agreed. A meeting may be extended on a motion supported by a majority of those attending the meeting, so long as the meeting remains quorate.

The chairperson may decide to invite non-members to attend and participate in a meeting or meetings of the Governing Body. Additionally, the Governing Body may, by resolution, invite a non-member to attend and participate in a meeting or meetings; non-members so participating shall not be entitled to vote.

Conduct of Business

The agenda for meetings for the Governing Body shall be proposed by the president, in consultation with the chairperson and after inviting proposals for agenda items from members of the Governing Body. Agenda items shall refer to the governance and the strategic development of the TU and other such items as fall within the jurisdiction of the Governing Body under the Act.

The agenda will be adopted as the first item of business at each meeting. At this stage, the order of business outlined in the agenda may be altered or the agenda may have items deleted or postponed from it, provided, in all cases, that this is agreed by a majority of the members present. Items may only be added to an agenda if they fall within the following categories as provided hereunder:

- a. Emergency items (see 6.20); and
- b. Items arising from the deliberation of Special Committees

A special meeting shall consider only the business specified on the agenda or notice of the meeting.

In the course of considering the agenda for a meeting, any member may seek to add an item to the agenda as an emergency item. An emergency item can only be one which could not have been foreseen five working days in advance of the meeting and which must be resolved before the next scheduled meeting of the Governing Body. A vote must be held on every proposal for an emergency item to be inscribed, and for it to be inscribed it must receive the assenting votes of the majority if the members present and voting.

Minutes

The secretary of the Governing Body shall ensure that minutes are taken of the proceedings and resolutions of all meetings of the Governing Body and Committees, including recording the names of those present and in attendance and conflicts of interest.

Minutes are not designed to be a verbatim account of proceedings, nor are they intended to include content from papers (including reports and Committee minutes). They should include clearly specified outcomes and actions for items, where relevant.

Minutes of Governing Body meetings will be circulated to all members of the Governing Body other than where specific agreed exclusions apply e.g. Conflict of Interest items.

All minutes of Governing Body are in "Draft" form until approved by Governing Body.

Minutes of Governing Body meetings will be published in redacted form on the TU's website.

Documents

All papers relating to matters for consideration shall normally be circulated at least [5] working days before the meeting. Documents (or draft agenda items) shall be given to the Recording Secretary. Such matters will normally be in written form, A document or verbal report may be tabled at the meeting provided:

- a. It relates to one of the agenda items for the meeting, and
- b. It was not available [5] working days in advance of the meeting, and
- c. A majority of the members present agree to it being tabled; or
- d. It concerns business that, in the opinion of the secretary of the Governing Authority, is commercially sensitive; or

e. It consists of personnel matters only and names of individual persons;

and provided also that in the case of documents tabled under (d) and (e) above members are given adequate notice that such documents will be presented.

Any such documents tabled at meetings under (d) and (e) shall be available at least one hour prior to the commencement of the meeting and the Authority may decide that these documents may not be removed from the meeting.

Confidentiality

Members of the Governing Body or of any Committee established by the Governing Body pursuant to the Act shall respect the confidentiality of proceedings and shall not disclose to any person not a member of the Governing Body or Committee any matter of a confidential nature considered by the Governing Body or Committee.

Members of the Governing Body shall return all documents issued to them as members of the Governing Body to the secretary at the completion of their Term of Office, or shall certify to the secretary, that they have permanently destroyed them.

Rules of Debate – Mode of Address and Motions

All matters to be dealt with at the meeting shall be addressed to the chairperson, while maintaining an appropriate degree of informality and flexibility.

Should two or more members indicate that they wish to speak, the chairperson will select the member who, in the opinion of the chairperson, first indicated an intention to speak.

All motions and their amendments must be proposed and seconded. Any amendments to a motion must be put to a vote before the motion itself. The chairperson shall read out the text of a motion or an amendment before it is put.

Any resolutions carried shall be recorded in the minutes.

The permission of the members present is required to permit the proposer of a motion to withdraw or amend his or her proposed motion.

No member may speak to any motion after it has been put to a vote by the chairperson and the show of hands or ballot has been taken on that motion.

Closure

If seconded, a closure motion will normally be put to the meeting without the requirement of further discussion.

6 Interpretation

The chairperson shall adjudicate on any dispute in relation to the interpretation of standing orders. Any ruling of the chairperson in relation to such a dispute shall be final.

7 Matters not covered by Standing Orders

The decision of the chairperson shall be final in relation to any matters not covered by these Standing Orders.

Any one or more of these Standing Orders, save those that reflect the provisions of the Act, may be suspended during the course of a meeting provided that two thirds of the members present and voting shall so decide.

Amendments to Standing Orders may be made at any meeting of the Governing Body by a simple majority of those present and voting. Notice of any proposed amendment is required to be given on the agenda and papers of the meeting.

8 Duties

The Governing Body must operate in accordance with the Schedule 1 to the Act and the following duties apply to the Governing Body:

Monitoring of performance – the Governing Body shall receive regular reports from the TU’s management team and any committee established by the Governing Body pursuant to the Act.

The Governing Body shall advise and support the chairperson and management.

The Governing Body shall satisfy themselves that financial controls and systems of risk management are robust and defensible.

The Governing Body shall keep itself up to date and fully informed about strategic issues and changes affecting the TU and the environment in which it operates.

The Governing Body shall review the results of the Governing Body performance evaluation process that relate to the composition of the Governing Body and corporate governance generally.

The Governing Body shall keep under review corporate governance developments (including ethics related matters) that might affect the TU, with the aim of ensuring that the corporate governance policies and practices continue to be in line with best practice.

The Governing Body shall ensure that the principles and provisions set out in the applicable corporate governance codes are adhered to.

Committees

The Governing Body may establish committees, consisting in whole or in part of persons who are members of the Governing Body or members of staff of the TU to assist and advise in relation to the performance of any of its functions. They may include members who are not members of the Governing Body if specialist skills are required. Where a committee is put in place:

- Meeting should be conducted in accordance with these standing orders;
- the Governing Body may appoint a person to be chairperson of any committee established and shall appoint its members having regard to; -
 - the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee;
 - the objective that at least 40 per cent of members of the committee shall be women and at least 40 per cent shall be men;
- The committee shall provide the Governing Body with such information and updates as the Governing Body may from time to time require, in respect of the committee’s activities and operations, for the purposes of the performance by the Governing Body of its functions;
- All protocols concerning the operation of the Governing Body shall be applied to a committee and the acts of a committee shall be subject to confirmation by the Governing Body unless the Governing Body otherwise decides;
- Minutes of committee meetings shall be circulated to all Governing Body members except where otherwise expressly agreed;
- The Governing Body may at any time dissolve a committee and/or remove a member of a committee established under the paragraph 6 of the Schedule 1 of the 2018 Act.

9 Conflicts of Interest

Governing Body Members are subject to the Standards in Public Offices Acts and are required to make Statutory Declarations annually on or before 31st January each year to the Standards in Public Offices Commission and to provide a copy of such declarations to the secretary to the Governing Body.

Where a Governing Body Member has any interest, as defined in the Standards in Public Offices Acts, in any company or concern with which the TU proposes to enter into any contract or any contract that the TU proposes to make, that Member shall disclose such interest to the Governing Body and shall recuse themselves from any meeting or portion of the meeting at which a deliberation of the matter occurs. Any such disclosures will be recorded in the minutes of the meeting [Act, Schedule 1, Paragraph 8].

Where a Governing Body Member has any interest, as defined in the Standards in Public Offices Acts, in any company or concern with which the TU proposes to enter into any contract or any contract that the TU proposes to make, that Member shall not receive any papers or proposals regarding the matter.

10 Reporting Responsibilities

The TU shall, not later than 30 June in each year, prepare and submit to the Minister and An tÚdarás a report on its activities in the immediately preceding year [Act, Part 2, Chapter 7, Section 23].

The president of the TU shall, under s.23 of the Act, prepare a draft of the report for approval by the TU before it is submitted to the Minister and An tÚdarás and, in doing so, shall have regard to –

- a. The strategic development plan of the TU,
- b. The equality statement of the TU, and
- c. Any requirements imposed on the TU under the Act of 2012.

The Governing Body shall, at least once a year, review its own performance, constitution and standing orders to ensure it is operating at maximum effectiveness and implement any changes it considers necessary.

11 Authority

The Governing Body is authorised to seek the information it requires from the TU in order to perform its duties. The Governing Body is authorised to obtain, at the TU's reasonable expense, outside legal or other professional advice where they judge it necessary to discharge their responsibilities as Governing Body members.

Appendix A2 Governing Body Member Letter of Appointment

BY EMAIL to:

[Date]

Dear [Name],

Re: Appointment as Member of [TU] Governing Body

I am writing on behalf of [XX] Technological University (“XXX”) to confirm your appointment as a member of the Governing Body (“XXX”) with effect from [Date].

On behalf of [TU] I would like to welcome and thank you for your service, and also to set in writing a summary of [TU]’s background, its legislative and governance structures, as well as the functions and duties of Governing Body and its members:

a) Background, Legislative and Governance Framework

On [Date], [Institutes of Technology] were dissolved as legal entities and [TU] was established as a new single legal entity in their place.

This was given legal effect by Ministerial Order, under Statutory Instrument [insert appropriate reference].

This Order established [TU] pursuant to the Technological Universities Act 2018 (‘the Act’), which is [TU]’s primary piece of governing legislation.

Under the Act, all staff, students, property, contracts, and pre-existing work of [Institutes of Technology] transferred to [TU] as of [Date].

[TU] is subject to the [TU] Code of Governance (the “Code”) as adopted by the Governing Body at its inaugural meeting on [Date].

[TU] is also a registered charity and is subject to relevant charitable legislation and governance requirements. External members may be requested to serve as a charitable trustee of [TU]. Training in relation to the obligations of that role will be provided if you are so appointed.

Copies of the Act and Code are **attached**.

b) [TU] Vision and Mission

As per [TU]’s report to the Minister for Education and Skills as part of the application for designation as a Technological University:

[insert relevant vision and mission]

c) Functions, duties and roles of [TU] Governing Body and its members

The Governing Body is responsible for performing the functions of [TU] under the Act. Section 9 of the Act in particular sets out the functions of [TU].

Schedule 1 of the Act details the terms on which Governing Body and its members are to operate. These are further elaborated on in the Code. [TU] has also adopted Standing Ordersto further regulate its procedure and business (copy **attached**).

As part of your role as a member of Governing Body, you are expected to contribute to the decision-making process at Governing Body meetings and to support those decisions once they are made.

Your role as a member of Governing Body is to serve the best interests of [TU] in its entirety. Regardless of the path to appointment, members do not represent the interests of any other party once they take up their role as governors of [TU].

In conjunction with all other Governing Body members, you are expected to set the strategic, ethical and governance tone of [TU].

Governing Body members also have an unofficial role as ambassadors on behalf of [TU], and should conduct themselves with this in mind.

Members are subject to the Code of Conduct for Governing Body attached at Appendix D1 to the Code, and you should familiarise yourself with same.

d) Governing Body and the President

The President of [TU], XXX, is the Chief Officer of [TU] under the Act.

XXX was appointed as the first President of [TU] on [Date], being the person standing designated as such by the Minister following a public recruitment competition.

The role of the President is set out in the Second Schedule of the Act as follows:

The president of a technological university shall carry on and manage, and control generally, the academic, administrative, and financial activities of the technological university, and matters relating to its staff and perform such other functions (if any) as may be determined by, the technological university, and for those purposes shall have such powers as are necessary or expedient.

The President performs his/her functions subject to such policies as may be determined from time to time by [TU] Governing Body and is accountable to it for the efficient and effective management of [TU] and performance her functions.

The President is also an ex-officio member of Governing Body.

Governing Body and the President are expected to work closely together to properly discharge the functions of [TU] and their respective roles in relation to them, in accordancewith the Act.

e) Duration of Appointment

Your appointment as a Governing Body member is for a period of two years from the date of appointment, being [Date].

f) Support and Training

[TU] is available to support you and all Governing Body members in fulfilling their roles.

You will be provided with induction training and a pack of relevant materials. Please be cognisant of the guidance and materials provided as part of that process as you carry out your role as a member of Governing Body.

From time to time as the need arises, the Governing Body will receive briefings and training on various aspects relevant to their role.

Where necessary, qualified external experts will provide these briefings. Otherwise, the briefings will be provided by the appropriate members of [TU]'s management team who are qualified and experienced in the relevant matters.

g) Procedures for obtaining information on relevant new laws and regulations

[TU] will endeavour to ensure that Governing Body is appraised, on an ongoing basis, of all relevant laws and regulations with which it should be aware of.

In furtherance of this objective [TU] will provide ongoing updates to Governing Body members by facilitating the attendance of [TU]'s legal advisors, the internal auditors and other professional experts at meetings of the Governing Body and its committees, from time to time.

h) Time Commitment involved in role of Governing Body member

The Governing Body is required to hold at least 6 meetings in any 12-month period and such and so many additional meetings as may be necessary, as determined by the Chair, for the due fulfilment of its functions.

A schedule of meetings will be provided to you.

Governing Body meetings are conducted in accordance with its Standing Orders. The venue may alternate between [TU]'s campuses. Virtual meetings are also permitted under the Act. A copy of Governing Body's procedure in relation to virtual meetings is attached.

A formal invitation to meetings with the times, dates and location is generally issued seven days in advance of the meeting along with the agenda and minutes of the previous meeting, as well as any papers needed for the meeting.

It is generally expected that Governing Body members would make their best endeavours to attend all meetings of the Governing Body. However, it is recognised that this may not always be possible. The Governing Body has made provision within its Standing Orders for attendance by video or tele conference. If you require to attend a meeting in this manner, you should notify [TU] in advance.

You should note that the attendance of Governing Body members at meetings is published annually in [TU]'s Annual Report, Governance Statement and Financial Statements.

i) Remuneration and Expenses

There is currently no remuneration payable for your role as a Governing Body member, or any role you undertake as a member of a committee of Governing Body.

You are entitled (subject to relevant ministerial approval) to receive expenses necessarily incurred in respect of your attendance at a Governing Body meeting where such meetings do not take place at your designated place of employment with or on behalf of [TU]. You should note that details of all expenses paid to you will be published annually in [TU]'s Annual Report, Governance Statement and Financial Statements.

You may be entitled, subject to the Public Service One Person One Salary provisions, to receive payment in respect of your participation, on behalf of [TU], as a member of [TU] interview panels. Details of these will be provided to you in the event of you being asked to assist in this regard.

j) Conflict of Interest Rules and Declarations of Interests

As a member of the Governing Body, you are now subject to the provisions of the Ethics in Public Office Acts 1995 to 2001 as amended. You are therefore required to submit a declaration of your interests and those of connected persons to the Standards in Public Offices Commission.

You must complete this annually by 31 January each year for the preceding year, and at the completion of your term of office.

Under the [TU] Code of Governance (section 5.1), members of Governing Body are also required to furnish a statement of interests on appointment.

For the purposes of this disclosure under the Code, 'interests' has the same meaning as that contained in the Ethics in Public Office Acts. Therefore, the statement of interests form used for annual statements under that Act is also used on an administrative basis for members to declare interests on appointment.

Please see **attached** form for completion and return to XXX. Please contact me if you have any questions in this regard.

Thereafter, your next declaration will be due by 31 January XXXX for the year XXXX. We will write to you again in advance of that.

Under the Act, as a member of the Governing Body, if a matter comes before the Governing Body in which you have a pecuniary or other beneficial interest in, or material to, you are obliged to disclose this at the meeting and to recuse and absent yourself from the meeting for the period in respect of which the matter is being discussed and decided upon. Your declaration of interest and recusal will be recorded in the minutes of the meeting.

In order to avoid such situations arising, it is recommended that you inform [TU] in advance of any interests that you may have and so that you do not receive the papers associated with the matter and that your declaration of interest can be appropriately made.

k) Cessation of Office

In accordance with the Act, you will cease to be a member of the Governing Body should you be elected or appointed (or regarded as having been so) to either House of the Oireachtas or as a representative of the European Parliament.

Further grounds for cessation of office are set out in paragraphs 3 and 4 of Schedule 1 of the Act and include ill-health, misbehaviour, bankruptcy, conviction or imprisonment, and disqualification as a company director.

You may resign your membership of the Governing Body at any time by notice in writing to the Chairperson of the Governing Body.

l) Rules on Confidentiality

In order to ensure that Governing Body members can speak openly and honestly at Governing Body meetings and are free to express their opinions, it is essential that the discussions that occur at Governing Body meetings remain confidential.

The minutes of the meeting (including any written resolutions) are the only formal record of the meeting and they are published, with appropriate material redacted, on [TU]'s website.

Under para 10 of Schedule 1 of the Act, it is a criminal offence to disclose confidential information (as that term is defined in the Act) obtained as a member of Governing Body, subject to the exceptions set out. Pursuant to

section 5 of the Act, a person guilty of an offence under the Act shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or to both. Summary proceedings for an offence committed by a member of Governing Body may be brought and prosecuted by [TU] under the Act.

Under the Code, obligations concerning confidentiality continue beyond the end of your term of office.

All papers issued to you as a member of the Governing Body should be returned to [TU] at the completion of your term. Alternatively, you may confirm that you have confidentially destroyed all the papers.

[TU] is subject to the Freedom of Information Acts 1997 to 2014 as amended and this applies to you as a Governing Body member. Any papers or records in your possession, including but not limited to notes that you may take at Governing Body meetings, in respect of your role as a Governing Body member, are subject to release under the Freedom of Information Acts. In the event of a request, you may be asked to submit these to an appointed Decision Maker for consideration. The details of your role as a Governing Body member are generally considered to be in the public domain and are therefore subject to release without restriction. Some of these details are published on the [TU] website, in the [TU] Annual Report, the Annual Governance Statement and the Annual Financial Statements.

[TU] is also subject to the Data Protection Acts 1988 to 2018 as amended and the EU GDPR Regulations. In this regard, personal details of a data subject are required to be kept confidential and to be used only for the purpose for which they were issued to the [TU]. As an internal recipient of such information from time to time, you are required to comply with [TU]'s policies in this regard.

Again, on behalf of [TU], please accept my warmest welcome to Governing Body.

Yours sincerely

Encls.: TU Act 2018

[TU] Code of Governance

[TU] Governing Body Standing Orders

[TU] Governing Body Procedure re Virtual Meetings

Declaration of Interests Form

Appendix B Role of Governing Body in relation to certain Functions, Statutory and Regulatory Requirements - TU

Appendix B is further divided into three parts to define requirements applicable to Universities only in Appendix B1; requirements applicable to TUs only in Appendix B2 and Appendix B2 to include requirements applicable to TUs.

SCHEDULE A, PART ONE – Technological Universities Act 2018

The functions reserved to the Governing Body and not delegated to the President shall be the following:

1. Functions in relation to the President

- 1.1 The functions relating to the appointment and removal and the setting of the terms and conditions of employment of the President provided for in Section 13 of the Technological Universities Act 2018.
- 1.2 Delegating to the President such other functions, in addition to the statutory functions of the President, as it sees fit from time to time
- 1.3 Holding the President accountable for the efficient and effective management of the technological university and for the due performance of his or her functions (Second Schedule, Section 6 (2) Technological Universities Act 2018)
- 1.4 Agreement to the President holding offices or positions outside of the TU (Second Schedule, Paragraph 7, Technological Universities Act 2018).

2. Financial and Budgetary functions

- 2.1 To accept gifts of money, land or other property subject to such trusts and conditions, if any, as are not in conflict with the Technological Universities Act 2018, specified by the donor (Section 9(2) of the Technological Universities Act 2018).
- 2.2 Approval of the budget (Section 20(2) of the Technological Universities Act 2018), the receipt of information with regard to a material departure from the budget (Section 20(6) of the Technological Universities Act 2018) and advising the President as to whether it agrees with his or her opinion (Section 20(7) of the Technological Universities Act 2018).
- 2.3 Approval of the borrowing money (Section 21(1) of the Technological Universities Act 2018).
- 2.4 Approval of the accounts (Section 22(1) of the Technological Universities Act 2018) and the furnishing to the Minister of the accounts and the report of the Comptroller and Auditor General on the accounts (Section 22(3) of the Technological Universities Act 2018).
- 2.5 Approval of the Annual Report in accordance with (Section 23(1) of the Technological Universities Act 2018).
- 2.6 [Approval of fees to be charged as provided for in Section 24 of the Technological Universities Act 2018].³³
- 2.7 Approval of the establishment of a company by the Technological University and of the acquisition, disposal or holding of shares in any such company as provided for in Section 25 of the Technological Universities Act 2018.

³³ Could be delegated to the President

3. **Functions in relation to the Academic Council**

- 3.1 Making regulations providing for the Academic Council as provided for in Section 16 of the Technological Universities Act 2018.
- 3.2 Receiving the recommendations of the Academic Council and making regulations with regard to the academic affairs of the Technological University as provided for in Section 17(3)(f) and (g) of the Technological Universities Act 2018.
- 3.3 Review the Academic Council, in such a form and such frequency as may be required (Section 17(2)(b) of the Technological Universities Act 2018).
- 3.4 Receiving recommendations from the Academic Council on programmes for development of research (Section 17(3)(d) of the Technological Universities Act 2018).
- 3.5 Receiving recommendations from the Academic Council relating to the selection, admission, retention and exclusion of students (Section 17(3)(e) of the Technological Universities Act 2018).
- 3.6 Delegating any other functions to the Academic Council (Section 17(3)(i) of the Technological Universities Act 2018).

4. **Management/Functioning of Governing Body**

- 4.1 Seeking nominations for and appointing members to the Governing Body, while also having regard to the objective that at least 40% of members elected shall be of each gender (Section 12 of the Technological Universities Act 2018) and making regulations relating to the conduct of elections in respect of the Governing Body (Section 12(5) Technological Universities Act 2018).
- 4.2 Provision of such information as is requested by the Minister regarding the performance of its functions (Section 27 (1) Technological Universities Act 2018).
- 4.3 Provision and retention of a seal of the college (Second Schedule, Section 6(1) of the Technological Universities Act 2018).
- 4.4 Appointment of deputy chairperson of Governing Body (Second Schedule, Section 5(4) of the Technological Universities Act 2018).
- 4.5 Appointment by the members of the Governing Body who are present of one of their number to be chairperson of the meeting, if and so long as the chairperson is not present of the office is chairperson is vacant and the deputy-chairperson is not present or the office is vacant (Second Schedule, Section 5(5)(c) of the Technological Universities Act 2018)
- 4.6 Removal from office of a member of the Governing Body subject to the conditions under the First Schedule, Section 3(3).
- 4.7 Holding at least 6 meetings in every 12 month period and such and so many additional meetings as may be necessary (Second Schedule, Section 5(1) of the Technological Universities Act 2018).
- 4.8 Regulating, by standing orders or otherwise, its procedures and business (Second Schedule, Section 11 of the Technological Universities Act 2018)
- 4.9 Making, amending or revoking rules as it thinks fit for the conduct and procedure of business (Second Schedule, Section 12 of the Technological Universities Act 2018).

5. **Strategic Development Plans**

- 5.1 The consideration of and, where it considers appropriate, the approval of the Strategic Development Plan submitted by the President as provided for in Section 18(4) and (5) of the Technological Universities Act 2018.

6. **Human Resources and Related Matters**

- 6.1 Approval of the procedures relating to the appointment of staff (Section 14 of the Technological Universities Act 2018).
- 6.2 Approving procedures relating to the resolution of disputes (Section 9(5) of the Technological Universities Act 2018).
- 6.3 The consideration and, where appropriate, approval of a draft equality statement submitted by the President as provided for in Section 19(4) of the Technological Universities Act 2018.
- 6.4 Establishing procedures following consultation with trade union and/or staff associations for suspension and dismissal of staff (Section 14(5) of the Technological Universities Act 2018).
- 6.5 Complying with information requests from HEA as set out in Section 14(6) of the Technological Universities Act 2018.

SCHEDULE A, PART TWO - Code of Governance and Other Statutory Obligations

1. **Policies and Procedures**

- 1.1 Approval of the Code of Governance.
- 1.2 Approval of risk management policies. (Code of Governance, Section 7.1)
- 1.3 Approval of staff Code of Conduct and a Governing Body Code of Conduct.
- 1.4 Approval of a written safety statement based on the hazard identification and Risk Assessment carried out in accordance with the criteria in Section 19 of Safety, Health and Welfare at Work Act 2005.
- 1.5 Approval of corporate governance statement and statement of the system of internal control as included in the financial statements.
- 1.6 Approval of the Annual Governance Statement.
- 1.7 Reviewing and overseeing the implementation of major plans of action and provision of strategic direction.

2. **Financial and Risk Compliance**

- 2.1 Approval of all capital projects and reinvestments [specify thresholds].
- 2.2 Approval for the operation of bank accounts (Banking Requirement).
- 2.3 Approval of bank authorised signatories (executive / management) authority (Banking Requirement).
- 2.4 Approval of significant disposals and retirement of assets (including land) of the TU or any of its subsidiaries (value at or above €150,000 excluding VAT) (Code of Governance, Section 8.33).
- 2.5 Approval for granting of access to property or infrastructure for commercial arrangements with third parties with an anticipated value at or above €150,000 excluding VAT (Code of Governance, Section 8.36).
- 2.6 Approval where competitive tendering for disposal of assets have taken place and the highest bid was not accepted. (Code of Governance, Section 8.34).
- 2.7 The disposal of assets over €150,000 excluding VAT to a charitable organisation or which are not put to a competitive tendering process (Code of Governance, Section 8.36).

- 2.8 Approval for disposals to staff or persons connected exceeding a threshold of €1,000 net book value (Code of Governance, Section 8.38).
- 2.9 The approval of terms of major contracts [specify thresholds].
- 2.10 Exercise oversight in the management of the financial affairs of the Technological University to ensure value for money and its financial viability.
- 2.11 Provision for and maintaining systems of audit, risk management and quality assurance.

3. **President**

- 3.1 Assessment of the performance of and succession planning for the President.

Appendix C Ethics in Public Office

Obligations under the Ethics Legislation

All those who hold designated directorships (Board memberships) or occupy designated positions of employment in public bodies, prescribed by regulation for the purposes of the Ethics legislation (i.e. the Ethics in Public Office Acts 1995 and 2001), must comply with the relevant provisions of the legislation. Compliance with the Ethics Acts is deemed to be a condition of appointment or employment. While the summary below is provided for information, detailed guidelines on compliance with the Ethics Acts has been published by the Standards in Public Office Commission (the Standards Commission) on their [website](#).

All persons who have obligations under the Acts are obliged to act in accordance with the guidelines and any advice given by the Standards Commission, unless by so doing they would be contravening another provision of the legislation.

This Code further requires all individuals who occupy designated positions to make an Annual Return including a nil return where applicable.

Disclosure of Registrable Interests

The Ethics in Public Office Act 1995 provides for the disclosure of registrable interests by holders of designated Board memberships and occupiers of designated positions of employment in public bodies prescribed for the purposes of the Ethics legislation. Briefly, the requirements are:

Designated Board Members: Are required in each year, during any part of which they hold or held a designated Board membership of a public body prescribed by regulations made by the Minister for Public Expenditure and Reform, to prepare and furnish, in a form determined by that Minister, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, a substantial benefit. The statement must be furnished to the Standards Commission and to such an officer of the body as determined by the Minister for Public Expenditure and Reform.

Designated Positions of Employment: Are required in each year, during any part of which they occupy or occupied a designated position of employment in a public body, prescribed by regulations made by the Minister for Public Expenditure and Reform, to prepare and furnish, in a form determined by that Minister, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, a substantial benefit. The statement must be furnished to the relevant authority for the position as determined by the Minister for Public Expenditure and Reform.

Material Interests: The holder of a designated Board membership or the occupier of a designated position of employment is required to furnish a statement of a material interest where a function falls to be performed, and where the Board member or the employee or a “connected person” (e.g. a relative or a business associate of the Board member or employee) has a material interest in a matter to which the function relates. Such a statement must be furnished to the other Board members of the public body by a designated Board member or to the relevant authority by the occupier of a designated position of employment. The function must not be performed unless there are compelling reasons to do so. If a designated Board member or the occupier of a designated position of employment intends to perform the function, he or she must, either before doing so, or if that is not reasonably practical, as soon as possible afterwards, prepare and furnish a statement in writing of the compelling reasons to the other Board members and to the Standards in Public Office Commission if a designated Board member, or to the relevant authority if an employee. This obligation applies whether or not the interest has already been disclosed in a statement of registrable interests.

Tax Clearance Obligations of Appointees to “Senior Office”

The tax clearance provisions of the Standards in Public Office Act 2001 apply to persons appointed to "senior office", i.e. to a designated position of employment or to a designated Board membership in a public body under the 1995 Ethics Act, in relation to which the remuneration is not less than the lowest remuneration of a Deputy Secretary General in the civil service. All persons appointed to a designated Board membership “senior office” must provide to the Standards in Public Office Commission not more than nine months after the date on which he or she is appointed:

- a tax clearance certificate that is in force and was issued to the person not more than nine months before, and not more than nine months after, the appointment date; or
- an application statement that was issued to the person and was made not more than nine months before, and not more than nine months after, the appointment date; and
- a statutory declaration, made by the person not more than one month before, and not more than one month after, the date of appointment, that he or she, to the best of his or her knowledge and belief, is in compliance with the obligations imposed on him or her by the Tax Acts and is not aware of any impediment to the issue of a Tax Clearance Certificate.

Investigations

The Board and employees of public bodies can be subject to investigation by the Standards Commission, either where it considers it appropriate to do so, or following a complaint, or where there is contravention of the tax clearance requirements, and there is nothing that precludes the Standards Commission from taking into account this Code in such an investigation.

Additional Information and Advice

This appendix is provided for information purposes only and does not constitute a legal interpretation of the Ethics Acts. Regard should be had in the first instance to the Standards Commission’s guidelines. Requests for advice on compliance with the legislation should be referred to the Standards Commission.

Appendix D Framework for a Code of Conduct

The Code of Governance for State Bodies has a suggested framework for development of a Code of Conduct. This has been implemented at sectoral level through the adoption of the following two model Codes of Conduct (one for Governing Body members and one for employees). These will be reviewed in line with future revisions to the State Body framework and any changes to the provisions of the Ethics legislation.

Appendix D1 Code of Conduct for the Governing Body

1.1 Introduction

[Insert Name of the TU] has developed this Code of Conduct for members of Governing Body pursuant to Section 5.1 of the THEA Code of Governance for Technological Universities. This Code of Conduct takes account of the implications of the Ethics of Public Office Acts, 1995 and the Standards in Public Office Act 2001, the Protected Disclosures Act 2014, as well as the TU Act 2018. A copy of the Code will be available upon request and be placed on the Technological University's website.

1.2 Intent and scope

The purpose of the Code is to provide guidance to the Governing Body of [Insert Name of the TU] in performing their duties as governors.

1.3 Objectives

The objectives of the Code are:

- To set out an agreed set of ethical principles;
- To promote and maintain confidence and trust in the governing body of the Technological University (TU);
- To prevent the development or acceptance of unethical practices;
- To promote the highest legal, management and ethical standards in all the activities of the TU;
- To promote compliance with best current governance and management practices in all the activities of the TU.

1.4 General Principles

All Governing Body members are required to observe the following fundamental principles as set out in the guidelines for the Code of Conduct.

1.4.1 Integrity

Members of Governing Body are required to disclose outside employment/business interests which they consider may be in conflict or in potential conflict with the business of [Insert Name of the TU], or may be perceived as such.

Governing body will not allow management or employees to be involved in outside employment/business interests in conflict or in potential conflict with the business of the TU. It will put in place appropriate

arrangements to give effect to this;

Governing Body members will avoid giving or receiving gifts, hospitality, preferential treatment or benefits which might affect or appear to affect the ability of the donor or the recipient to make independent judgement on business transactions;

Governing Body members must be committed to having the TU compete vigorously and energetically but also ethically and honestly with other educational TUs, commercial and other providers of research and advisory services;

The TU is committed to conducting its purchasing activities of goods/services in accordance with public policy and best business practice and its purchasing regulations reflect this;

The TU is also committed to ensuring that its engagement of consultancy and other services is in compliance with public policy guidelines;

The TU is committed to ensuring that the accounts/reports accurately reflect the operating performance of the TU and are not misleading or designed to be misleading;

Governing Body members are required to avoid the use of TU resources or time for personal gain, for the benefit of persons/organisations unconnected with the TU or its activities or for the benefit of competitors; and

The TU is committed not to acquire information or business secrets by improper means.

1.4.2 Information

The TU is committed to providing access to general information relating to its activities in a way that is open and enhances its accountability to the general public;

Governing Body members are required to respect the confidentiality of sensitive information held by the TU. This would constitute material such as:

- personal information;
- information received in confidence by the TU;
- any commercially sensitive information or other information sensitive to the reputation of the TU.

The TU will observe appropriate prior consultation procedures with third parties where, exceptionally, it is proposed to release sensitive information in the public interest;

The TU will comply with all relevant statutory provisions (e.g. Data Protection legislation and Freedom of Information legislation);

Members of Governing Body will observe due confidentiality in relation to all discussions and decisions taken at meetings of the governing body.

1.4.3 Obligations

The TU will fulfil all regulatory and statutory obligations imposed on it by the TU Act 2018;

The TU will comply with detailed tendering and purchasing procedures, as well as complying with prescribed levels of authority for sanctioning any relevant expenditure;

The TU has introduced measures to prevent fraud and to ensure compliance with the prescribed levels of authority for sanctioning any relevant expenditure;

Members are required to use their reasonable endeavours to attend all governing body meetings.

It is acknowledged that the acceptance of positions following employment and/or engagement by a third level institution can give rise to the potential for conflicts of interest and to confidentiality concerns. The governing body of the TU will consider any cases in which such conflicts of interest or confidentiality concerns may arise and will take appropriate steps to deal with such matters in an effective manner. The governing body will also ensure that any procedures that it may put in place in this regard are monitored and enforced.

1.4.4 Conflicts of Interest and Disclosures of Interest

Governing Body members should ensure that they comply with their statutory obligations with regards to actual and potential conflicts of interest which derive from the Ethics in Public Office Act 2001. These obligations require:

- i. Governing Body members provide an annual statement of interest to the Standards in Public Office Commission and the nominated TU officer.
- ii. On an ongoing basis to furnish a statement of interest at the time where an official function falls to be performed by the Governing Body member and he/she, or a connected person as defined in the Ethics in Public Office Act, has a material interest to which the function relates.
- iii. Declare any potential conflicts of interest as they arise.

1.4.5 Loyalty

Governing Body members and Trustees acknowledge the responsibility to be loyal to the TU and to be fully committed to all its activities, with due respect to the tenets of academic freedom, while mindful that the TU itself must at all times take into account the interests of the charity, its students and providers of funds including taxpayers;

A conflict of loyalty means a particular type of conflict of interest, in which a person's loyalty or duty to another person or organisation could prevent them from making a decision only in the best interest of the TU. The Governing Body acknowledge the duty of all to conform to highest standards of business ethics

1.4.6 Fairness

The TU is committed to complying with employment equality and equal status legislation;

The TU is committed to fairness in all business dealings; and

The TU values its students, suppliers, employees and customers and treats all its students, suppliers, employees and customers equally.

1.4.7 Work/External Environment

The Governing Body of the TU place the highest priority on promoting and preserving the health and safety of its employees and students;

The TU will ensure that community concerns are fully considered in its activities and operations;

The TU will minimise any detrimental impact of its operations on the environment.

1.4.8 Responsibility

The TU will circulate this Code of Conduct (and a policy document on disclosure of interests) to all Governors for their attention and the Code of Conduct will be placed on the TU's website;

The TU will provide practical guidance and direction as required on such areas as gifts and entertainment and on other ethical considerations which may arise.

1.4.9 Review

The TU will review this Code of Conduct as appropriate.

Appendix D2 Code of Conduct for Employees

1. Introduction

- 1.1 [Insert Name of the TU] is charged with maintaining best practice behaviour in all our interactions and has developed this Code of Conduct as a way of ensuring that appropriate standards of conduct are adhered to by our employees. The Technological University (TU) encourages the highest standard of conduct to ensure that our actions are lawful, ethical, honourable and transparent. Everyone to whom this Code applies is expected to operate at all times in all settings in a manner that positively reflects on and enhances the reputation of themselves and the TU.
- 1.2 This Code is principle-based. It sets out the minimum requirements with which everyone within its scope is expected to abide in performing his/her duties in a lawful, ethical and professional manner and in compliance with the policies and procedures of the TU and the THEA Code of Governance for Technological Universities.
- 1.3 This Code takes account of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 and the Protected Disclosures Act 2014. This Code has been approved by the Governing Body³⁴. There is a requirement for each TU to develop a Code of Conduct, to comply with the THEA Code of Governance for Technological Universities and report on this to the HEA as part of the Annual Governance statement by the President and the Chair of the Governing Body.
- 1.4 This Code applies to employees of [Insert Name of the TU] and its subsidiaries.
- 1.5 Employees must comply with all applicable legislative and regulatory requirements.
- 1.6 Employees will comply with all policies and procedures put in place for employees generally by the TU from time to time.
- 1.7 This Code does not address all possible situations that may arise in the TU but is a set of principles that provide guidance to Employees on acceptable and unacceptable behaviour.

2. Objectives

- 2.1 The objectives of the Code are:
 - To set out an agreed set of ethical principles;
 - To promote and maintain confidence and trust in the TU and its Employees;
 - To prevent the development or acceptance of unethical practices and behaviours;
 - To promote the highest legal, professional and ethical standards in all the activities of the TU;
 - To promote compliance with best current governance and management practice in all the activities of the TU.

These objectives can be achieved through adherence to the fundamental principles set out in this Code. The general principles of this Code of Conduct which Employees are expected to comply with are:

- Integrity
- Honesty
- Transparency
- Confidentiality
- Loyalty
- Fairness

3. General Principles

³⁴ The Governing Body is required to approve this Code of Conduct

3.1 Integrity

- 3.1.1 Employees have a duty to conduct themselves in accordance with the highest standards of business and professional ethics. This will include full compliance with the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 including any amendments to these Acts.

<http://www.irishstatutebook.ie/1995/en/act/pub/0022/index.html>

<http://www.irishstatutebook.ie/2001/en/act/pub/0031/index.html>

- 3.1.2 Employees (other than hourly paid part-time employees) must obtain written approval in advance from the President of the TU for outside employment/ and comply with such policies or procedures around same as may apply from time to time.

- 3.1.3 Employees must disclose to the President of the TU (or person(s) delegated by the President) any conflict of interest with the interests of the TU. A conflict of interest can occur when personal interests, activities, investments or associations compromise an employee's judgment or ability to act with integrity and/or in the best interests of the TU or may be perceived as such.

Matters relating to conflict of interest in relation to academic activities are dealt with in [Name of TU] Policy on Conflict of Interest (Relating to the Academic Activities of [Name of TU]). This document also outlines relevant reporting and other procedures.

Situations that may give rise to conflict of interest are typically:

- financial interest in matters the TU deals with - Employees may find themselves in a position in which fulfilment of their functions and duties may confer material benefits to themselves, their families, relatives or close associates;
- personal relationships with students - staff should avoid and must disclose to the TU any situations which may require them to supervise or assess a student with whom they have or have had a personal, commercial, familial or other significant relationship;
- personal relationships with other employees-
 - Employees must disclose to the TU any situations which may require them to supervise another member of staff with whom they have or have had a personal, commercial, familial or other significant relationship;
 - Employees must disclose to the TU any personal relationships with a current or prospective employee which may give rise to a conflict of interest;
- personal relationships with people the TU is dealing with e.g. contractors or tenderers;
- secondary employment that compromises the integrity of the TU or exposes the TU to risk arising from the Double Employment provisions set out in the Organisation of Working Time Act 1997 or any replacement thereof (i.e. outside work must not be accepted where it may cause a conflict between the employee's private interests and duties to the TU).
- secondary employment that compromises the integrity of the TU or exposes the TU to risk arising from Health & Safety legislation and related [Name of TU] policies or which affects the employee's ability to undertake full duties in a safe manner.

Where an employee is unhappy with any decision in relation to outside employment of a conflict of interest, they may utilise the individual grievance procedure.

- 3.1.4 Employees must conduct their purchasing of goods/ services for the TU in accordance with public policy, best business practice and the TU's procurement policies and procedures, as well as complying with prescribed levels of authority for the sanctioning and monitoring of any relevant expenditure. Employees must ensure that the engagement of consultancy and other services is in compliance with public policy guidelines and the TU's policy.

- 3.1.5 Employees must not solicit contracts with the TU for the supply of goods or services either for their own benefit, or for any partnership or company with which they have an involvement in their private capacity, or on behalf of other persons or organisations.
- 3.1.6 The TU is committed to not acquiring information or business secrets by improper means.
- 3.1.7 Employees must ensure that the accounts/reports of their area of responsibility within the TU accurately reflect the operating performance of the TU and are not misleading or designed to be misleading.
- 3.1.8 Employees must avoid the unapproved use of the TU's resources or time for personal gain or for the benefit of competitors and/or other education providers.
- 3.1.9 Employees should communicate to the appropriate level of management if they suspect or are aware of dishonest or other improper activity, as per the TU's Disclosure Policy.

3.2 Honesty

- 3.2.1 Employees must use the resources of the TU in a proper, effective and efficient manner and must take proper and reasonable care of TU property and must not knowingly use or permit its use for unauthorised purposes.
- 3.2.2 Employees are required to attend work, perform their duties in a diligent and efficient manner and not absent themselves from duty without proper authorisation, in accordance with the TU's Leave Management Policy.
- 3.2.3 Employees must carry out official directions and policies in good faith and in an impartial and transparent manner.
- 3.2.4 Employees must ensure that expenses, such as travel and subsistence payments, are not unnecessarily incurred either by themselves or by staff reporting to them and must comply with Government Guidelines (Department of Finance Circular 11/82 and subsequent amendments).

3.3 Transparency

- 3.3.1 Employees must comply with the following guidelines in relation to giving and receiving gifts and entertainment, in order to ensure that TU decisions are made on fair and objective criteria.
- 3.3.2 Employees must not solicit gifts or hospitality for personal gain. The receipt of gifts and hospitality by employees from individuals or organisations will be governed by the highest standards. The term "gift" includes any benefit which is given to an employee free of charge or at less than its commercial price.
- 3.3.3 The exchange of official gifts (e.g. gifts exchanged with dignitaries and officials) to and from the TU is acceptable and in such circumstances gifts received remain the property of the TU. Receipt of hospitality that constitutes normal courtesies in student, business and community relations (e.g. attendance at a community/civic/cultural function) is acceptable. Employees may only accept personal gifts of a reasonable value, as defined from time to time by the TU.

- 3.3.4 Employees must not accept cash, gift cheques or any vouchers that may be exchanged for cash, regardless of the amount, from external individuals or organisations.
- 3.3.5 Employees must make themselves aware of any TU guidelines, which may be issued from time to time in respect of the above, including the appropriateness of gifts.

3.4 Confidentiality and Intellectual Property

- 3.4.1 Employees are required to comply with relevant statutory provisions under the Freedom of Information Acts, 2014, the Data Protection Acts, 1988 and 2003 and the TU's Records Management Policies and Procedures and any amendment thereof. The TU is committed to managing access to general information relating to activities of the TU in a way that is open and transparent and enhances the TU's accountability to the general public.
- 3.4.2 Employees must respect and maintain confidentiality in relation to staff, students and commercially sensitive TU business. Employees are required to respect the value and ownership of information they receive and not disclose information without appropriate authority unless there is a legal or professional obligation to do so, having regard to the principle of academic freedom.
- 3.4.3 Employees must take reasonable steps to ensure compliance with the TU's Intellectual Property Policy.
- 3.4.4 Employees are required at all times to respect the confidentiality of sensitive information held by and processed by the TU. Such information includes, but is not limited to:
- personal information;
 - information received in confidence by the TU;
 - any commercially sensitive information or other information sensitive to the reputation of the TU.
- 3.4.5 Employees will observe appropriate prior consultation and decision-making procedures where, exceptionally, it is proposed to release sensitive information in the public interest.
- 3.4.6 Employees must respect the confidentiality of information received in the performance of their duties as employees. Additionally, employees must respect the confidentiality of the deliberations of any TU Boards/ Committees where advised that such confidentiality is required.
- 3.4.7 Employees must ensure that appropriate care is taken to guarantee the security of sensitive information (in paper or electronic form) whether stored on or off TU property.
- 3.4.8 Employees must ensure that confidential records are subject to appropriately restricted access procedures in accordance with TU guidelines. Where clarification is required as to the appropriate restricted access requirements for records in their direct control, the onus is on the Employee to follow-up with the responsible owner to ensure this is effectively controlled. Advice in this regard may also be requested from the [Name of TU] Freedom of Information Officer.
- 3.4.9 The obligations of an employee to the Institution with regard to the non-disclosure of privileged or confidential information do not cease when his/her relationship with the TU has ended.

3.5 Loyalty

- 3.5.1 Employees are expected to be faithful to their commitments and obligations at the TU, including those set out in their contract of employment. Employees must carry out their duties in a professional, responsible and conscientious manner and to the highest possible standard.
- 3.5.2 Employees are also required to act in accordance with TU's goals, policies and procedures and to respond positively to any lawful instructions and reasonable directions given by persons who are authorised by the TU to give such instructions and direction.
- 3.5.3 Employees must uphold the good name and reputation of the TU and exercise judgment in the best interests of the TU. This obligation does not detract from the exercise of academic freedom, within the law.
- 3.5.4 Employees will act responsibly and fairly with the due care, diligence, loyalty and the prudence of a reasonable individual whose duty of care is to the TU.

3.6 Fairness

- 3.6.1 Employees will treat each other and all members of the TU community in accordance with dignity and respect policies which includes:
- respect a colleague's work space and personal space;
 - value the constructive contributions made by others;
 - respect the rights of others with different views;
 - not make inappropriate jokes or comments which may be offensive, insulting, intimidating or degrading to others;
 - criticise, demean or dismiss others via any public forum;
 - respect each other's knowledge and experience;
 - show an understanding towards others when they are facing personal or work-related difficulties and, where appropriate, provide reassurance, guidance and support;
 - acknowledge and give credit to those deserving of it
- 3.6.2 Employees must comply with applicable employment rules, standards and contract provisions.
- 3.6.3 This Code places an onus on employees to ensure compliance with employment equality and equal status legislation, a commitment to fairness in all business dealings, and the valuing and equal treatment of all those with whom the TU interacts. This will include, inter alia, compliance with the TU's Bullying and Harassment Policies and Procedures and such other such policies that will be brought to the attention of staff by the TU from time to time.
- 3.6.4 The TU values its students, suppliers, employees and customers and employees must treat all students, suppliers, other employees and customers fairly.
- 3.6.5 Employees must treat other persons equitably, irrespective of gender, family status, sexual orientation, race, disability, religion, civil status, age or traveller community membership.
- 3.6.6 Employees must be responsive and courteous in dealing with other employees, students and members of the TU and wider public community.
- 3.6.7 Employees should communicate openly, honestly and directly. In doing so, employees should:
- listen carefully with an open mind;
 - frame responses in a thoughtful and considered way;

- use all communication tools including e-mail, text messages, social media etc. appropriately and carefully ensure that messages do not give offense, offer and accept constructive feedback to and from others in an appropriate manner;
- not communicate aggressively at any time;
- not communicate in a way that demeans or insults others;
- not initiate or spread rumours or gossip that may be damaging to others;
- not use inappropriate behavior or language at meetings or in public, which may cause others to feel criticized, humiliated or embarrassed.

4. Reporting Breaches of the Code of Conduct

4.1 Employees should report suspected breaches of applicable laws, regulations and/or this Code through normal management structures or, if appropriate, under the TU's Protected Disclosures Reporting Policy. This reporting should normally be made initially through standard management channels, beginning with immediate supervisor or manager. If, for any reason, it is not appropriate to report suspected breaches to the immediate supervisor or manager, individuals may go to the next level of management as appropriate.

5. Responsibility

5.1 The TU will ensure that this Code is circulated to all employees for their understanding and retention. It will also be available on the TU's website

5.2 All Employees are required to make themselves aware of this Code (and any subsequent amendments or guidelines) and must adhere to the principles set out above. Breach of this Code may lead to disciplinary action in accordance with the TU's Disciplinary Procedures.

5.3 The TU will provide practical guidance and direction as required by employees in such areas as gifts and entertainment and on other ethical considerations which may arise from time to time.

6. Consultation on the Code

6.1 This Code has been finalized following a consultation process under the aegis of the Public Service Agreement 2010-2014 involving representatives of IMPACT, SIPTU, UNITE and TUI.

Appendix E Model Internal Audit Activity Charter³⁵

Introduction

Internal Auditing is an independent and objective assurance and consulting activity that is guided by a philosophy of adding value to improve the operations of the [insert name of entity]. It assists [insert name of entity] in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of the TU's governance, risk management, internal control.

The Internal Audit function is outsourced to an appropriately qualified professional services firm, [insert name of firm], hereafter referred to as the Internal Audit Service Provider. The Appointment of the Internal Audit Service Provider is a sectoral collaboration performed through public procurement processes.

Governing Body Policy Statement

The TU recognises the significant contribution to good governance and effective internal control made by an efficient and effective internal audit function.

The TU pledges its full support to the Internal Audit Service Provider in discharging the authorities and responsibilities contained in this Charter and undertakes to provide adequate resources to the Internal Audit Service Provider to properly discharge its function.

Role

The Internal Audit activity is established by the Governing Body, Audit and Risk Committee, or highest level of governing body. The Internal Audits activity's responsibilities are defined by the Governing Body as part of their oversight role.

Authority

The Internal Audit activity, with strict accountability for confidentiality and safeguarding records and information, is authorised full, free, and unrestricted access to any and all of [insert name of entity] records, physical properties, and personnel pertinent to carrying out any engagement. All employees are requested to assist the Internal Audit Service Providers activity in fulfilling its roles and responsibilities. The Internal Audit Service Providers activity will also have free and unrestricted access to the Governing Body.

Organisation

The Internal Audit Service Provider reports functionally to the Audit and Risk Committee and administratively (i.e. day to day operations) to the President or their designate. The Internal Audit Service Provider should also have direct access to the Chairperson of the Governing Body and the Chairperson of the Audit and Risk Committee.

The Audit and Risk Committee will:

- Approve the internal audit charter.
- Approve the risk based internal audit plan.
- Approve the internal audit budget and resource plan.
- Receive communications from the Internal Audit Service Provider on the internal audit activity's

³⁵ Adapted from The Institute of Internal Auditors – Model Internal Audit Activity Charter

performance relative to its plan and other matters.

Independence and Objectivity

The Internal Audit Service Provider will remain free from interference by any element in the organisation, including matters of audit selection, scope, procedures, frequency, timing, or report content to permit maintenance of a necessary independent attitude.

The Internal auditor Service Provider will have no direct operational responsibility or authority over any of the activities audited. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair the internal auditor's judgment.

The Internal Auditor Service Provider will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined. The Internal Audit Service Provider will make a balanced assessment of all the relevant circumstances and not be unduly influenced by their own interests or by others in forming judgments.

Responsibility

The scope of audit activities will be determined using appropriate risk assessment tools to ensure adequate coverage of risks and exposures, and will consider the special needs of management. Specifically, Internal Audit Service Providers scope of activities is to ascertain that the processes for controlling operations, as they have been designed and represented by management, are adequate and functioning. The Internal Audit Service Provider has responsibility to:

- Develop and maintain a strategic audit plan covering a three-year period based on significant exposures to loss or failure and submit that plan to the Audit and Risk Committee for approval.
- Develop annual audit plans based on significant exposures identified in the strategic audit plan and submit such annual plans to the Audit and Risk Committee for approval.
- Consider the scope of work and liaise with external auditors for the purpose of providing optimal audit coverage.
- Implement the audit plans as approved, including any value for money auditing and special projects assigned by the Audit and Risk Committee or requested by senior management.
- Disseminate Best Practice Guidelines.
- Report significant issues relating to the processes for controlling the activities of the TU arising from the internal audit work undertaken.
- Issue reports to the Audit and Risk Committee addressing the results of audits conducted summarising observations and recommendations made.
- As part of findings follow-up reviews, Internal Audit will monitor and report to management and the Audit and Risk Committee on progress towards the implementation of agreed audit recommendations.
- Meet with the Audit and Risk Committee twice a year, first to obtain approval for the annual audit plan and secondly to present reports to the Audit and Risk Committee on audits carried out.
- Evaluate and assess controls coincident with the introduction of major changes to systems.
- Provide technical assistance to management to assist in the investigation of suspected fraudulent activity within the Technological University.

Internal Audit Plan

At least annually, the Internal Audit Service Provider will submit to the Audit and Risk Committee an internal audit plan for review and approval. The internal audit plan will consist of a work schedule as well as budget and resource requirements for the next fiscal/calendar year.

The internal audit plan will be developed based on a prioritisation of the audit universe using a risk-based methodology, including input of senior management and the Governing Body. The Internal Audit Service Provider will review and adjust the plan, as necessary, in response to changes in the TU's business, risks, operations, programs, systems, and controls. Any significant deviation from the approved internal audit plan will be communicated to senior management and the Audit and Risk Committee through periodic activity reports.

Reporting and Monitoring

A written report will be prepared and issued by the Internal Audit Service Provider or designee following the conclusion of each internal audit engagement and will be distributed as appropriate. Internal audit results will also be communicated to the Audit and Risk Committee.

The internal audit report may include management's response and corrective action taken or to be taken in regard to the specific findings and recommendations. Management's response, whether included within the original audit report or provided thereafter (i.e. within thirty days) by management of the audited area should include a timetable for anticipated completion of action to be taken and an explanation for any corrective action that will not be implemented.

The Internal Audit Service Provider will periodically report to senior management and the Audit and Risk Committee on the internal audit activity's purpose, authority, and responsibility, as well as performance relative to its internal audit plan. Reporting will also include significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by senior management and the Governing Body.

Quality Assurance

The Internal Audit Service Provider is fully committed to quality and conducts its business within the framework of applicable professional standards, laws, regulations and internal policies. It also recognise that these standards, laws, regulations and policies cannot govern all types of behaviour. As a result, it also has its own Code of Conduct which applies to all of its people and all of its work. This code provides a broad range of guidance about the standards of quality, integrity and professional behaviour it continually strives to deliver. In performing its Internal Audit work the Internal Audit Service provider take into account the following standards:

- The Institute of Internal Auditors' (IIA) International Standards for the Professional Practice of Internal Auditing (Standards); and
- Applicable International Auditing Standards and the supporting Institute of Chartered Accountants Ireland (ICAI) bulletins.

Internal Audit Activity Charter

Approved this _____ day of _____, _____.

Internal Audit Service Provider

Chairperson of the Governing Body / Audit and Risk Committee

President

Appendix F Principles of Quality of Service for Customers and Clients of the Technological University

In their dealings with the public, the TU will:

Quality Service Standards

Publish a statement setting out the quality of education learners can expect and the level of service the general public and other stakeholders can expect of the organisation.

Equality/Diversity

Ensure the rights to equal treatment, established by equality legislation, and accommodate diversity, so as to contribute to equality for the groups covered by the equality legislation (under the grounds of gender, marital status, family status, sexual orientation, religious belief, age, disability, race and membership of the Traveller Community). Identify and work to eliminate barriers to access to services for people experiencing poverty and social exclusion, and for those facing geographic barriers to services.

Physical Access

Provide clean, accessible public offices that ensure privacy, comply with occupational and safety standards and, as part of this, facilitate access for people with disabilities and others with specific needs.

Information

Take a proactive approach in providing information that is clear, timely and accurate, is available at all points of contact and meets the requirements of people with specific needs. Ensure that the potential offered by Information Technology is fully availed of and that the information available on the TU's websites follows the guidelines on web publication. Continue the drive for simplification of rules, regulations, forms, information leaflets and procedures.

Timeliness and Courtesy

Deliver quality services with courtesy, sensitivity and the minimum delay, fostering a climate of mutual respect between the TU and the learner/ stakeholder. Give contact names in all communications to ensure ease of on-going transactions.

Complaints

Maintain a well-publicised, accessible, transparent and simple-to-use system of dealing with complaints about the quality of service provided.

The TU may be subject to complaints at both the level of the official and the organisation. These may relate to the quality of the service itself or the manner in which the service was delivered. The scope for student or other stakeholder dissatisfaction can be reduced by provision of appropriate information to the student or other stakeholder regarding the available service and training to staff in how to deliver the service.

In setting up systems to deal with student or other stakeholder dissatisfaction, organisations should ensure that all complaints are dealt with objectively in a consistent, open and fair manner.

Some elements to be included in Comments/Complaints systems include:

- information regarding complaints procedures should be freely available to the public at all points of service delivery and should be publicised by organisations;
- complaints procedures should be straightforward and access should be conveniently available to student or other stakeholder and clients at no cost wherever possible;
- all complaints should be directed to, and acknowledged, by a named officer of appropriate grade;
- appropriate training should be provided to all staff dealing with complaints . complaints should be addressed as quickly as possible and the customer should be kept informed of progress;
- complaints procedures should be subjected to regular review; and
- provisions should be made for speedy correction of errors and, where required, the making of appropriate redress to the complainant.

Appeals

Similarly, maintain a formalised, well-publicised, accessible, transparent and simple-to-use system of appeal/review for customers who are dissatisfied with decisions in relation to services.

Consultation and Evaluation

Provide a structured approach to meaningful consultation with, and participation by, the student or other stakeholder in relation to the development, delivery and review of services. Ensure meaningful evaluation of service delivery.

Choice

Provide choice, where feasible, in service delivery including payment methods, location of contact points, opening hours and delivery times. Use available and emerging technologies to ensure maximum access and choice and quality of delivery.

Official Languages Equality

Provide quality services through Irish and/or bilingually and inform student or other stakeholder of their right to choose to be dealt with through one or other of the official languages.

Better Co-ordination

Foster a more co-ordinated and integrated approach to delivery of TU's services.

Internal Customer

Ensure that employees are recognised as internal stakeholders and that they are properly supported and consulted with regard to service delivery issues.

Appendix G Annual Financial Statement Report

Reporting requirements for the Annual Financial Statement Report include the following:

1. Each TU should note the agreement reached with the HEA in its annual report regarding their level of compliance with this Code. This should explain whether certain requirements are to be phased-in over a longer period of time, or otherwise varied in some way. **(Compliance Requirements)**
2. The Governing Body of each TU should approve an Annual Programmes and Budgets and should formally undertake an evaluation of actual performance by reference to the plan and/or budget on an annual basis and reflect this, as appropriate, in the annual report. **(1.17 –THEA Code of Governance)**
3. It must be stated in the annual report that the Governing Body are responsible for preparing the annual report and financial statements and whether they consider the financial statements to be a true and fair view of the TU's financial performance and its financial position at the end of the year. **(1.18 – THEA Code of Governance)**
4. The Governing Body should state in the annual report and financial statements how the performance evaluation of the Governing Body and its committees has been conducted. An external evaluation proportionate to the size and requirements of the TU should be carried out at least once during the term of every Governing Body. **(4.6 – THEA Code of Governance)**
5. The annual report should include a statement of how the Governing Body operates, including a high level statement of which types of decisions to be taken by the Governing Body and which are to be delegated to management. **(4.7 THEA Code of Governance)**
6. The Audit and Risk Committee should meet at least four times a year and invite outsiders with relevant experience to attend meetings if necessary. In the event that four meetings is not considered necessary the Chairperson of the TU should make a statement in the TU's annual report that the he/she is satisfied that the Audit and Risk Committee discharged its role with fewer than four meetings in a year. **(1.13 – Audit and Risk Committee Requirements)**
7. The names of the Chairperson, the deputy Chairperson (if any), the President and members of the Governing Body and its committees. **(6.3 THEA Code of Governance)**
8. The number of meetings of the Governing Body and its committees and the attendance of each Governing Body member at Governing Body meetings should be reported in the annual report. **(6.4(iv) THEA Code of Governance)**
9. Each TU should publish (or where publication is not required, submit to the Minister and HEA) its annual report and financial statements not later than one month following completion of the audit of the financial statements by the Comptroller and Auditor General. **(6.4(ii) THEA Code of Governance)**
10. Confirmation that the Governing Body has carried out an appropriate assessment of the TU's principal risks, including a description of these risks, where appropriate and associated mitigation measures or strategies. **(7.2 – THEA Code of Governance)**
11. The Chairperson of each TU should confirm in the annual report that the TU is adhering to the relevant aspects of the Public Spending Code. **(8.22 – THEA Code of Governance)**

12. The Statement of Internal Control (paragraph 6.10(v) – Code of Practice) should be included in the annual report of the TU. This statement should be reviewed by the Comptroller and Auditor General to confirm that it reflects the TU's compliance with the requirements of paragraph 6.7 and is consistent with the information of which they are aware from their audit work on the financial statements. The Comptroller and Auditor General should include their report on this matter in their audit report on the financial statements. **(6.10—THEA Code of Governance)**
13. An account of the approach being adopted in regard to the promotion of diversity and inclusion, including with regard to gender, in the specific context of the organisation; and on the progress and achievements in this regard. **(4.10 – THEA Code of Governance)**

Appendix H Financial Statements

Reporting requirements for the Financial Statements include the following:

Note: The Department of Further and Higher Education, Research, Innovation and Science/HEA may choose to seek additional financial information at more frequent intervals than those outlined here.

1. In line with Section 16 of the IOT Acts, 1992-2006, Draft unaudited financial statements³⁶ for each TU should be furnished to the Comptroller and Auditor General in a timeframe determined by them, currently not later than three months after the end of the relevant financial year. **(6.4(i) - THEA Code of Governance)**
2. The TU should publish its annual report and/or financial statements not later than one month following completion of the audit of the financial statements of the said body by the Comptroller and Auditor General. **(6.4(ii) – THEA Code of Governance)**
3. The TU should submit to the HEA its annual report and/or financial statements not later than one month following completion of the audit of the financial statements of the said body by the Comptroller and Auditor General. **(6.4(ii) – THEA Code of Practice)**
4. In the interests of transparency and good governance, the TU is required to publish in their annual report and/or financial statements details of non-salary-related fees paid in respect of Governing Body members analysed by category, and the salary of the President. **(6.4(iii) – THEA Code of Governance)**
5. The TU should disclose details of expenditure on external consultancy/adviser fees in their annual report and/or financial statements for each accounting year for any given entity.

For this purpose consultancy fees mean fees paid to external parties providing advisory services of any nature. Such fees should be itemised by category as stated below or as the TU considers appropriate having regard inter alia to its size and competitive position and to the extent to which information is already disclosed:
 - Legal (legal fees across all areas to be included here e.g. for pension, HR etc.);
 - Tax and financial advisory (e.g. due diligence, accounting, corporate finance);
 - Public relations/marketing;
 - Pensions and human resources; and
 - Other.**(6.5 – THEA Code of Governance)**
6. Employee Benefits: In addition to disclosing the aggregate pay bill and total number of employees, the TU should publish details of the number of employees whose total employee benefits (excluding employer pension costs) for the reporting period fell within each pay band of €10,000 from €60,000 upwards and an overall figure for total employer pension contributions in their annual report and/or financial statements. **(6.4(vi) – THEA Code of Governance)**

³⁶ Draft unaudited financial statements refer to draft financial statements and notes thereon (in accordance with applicable accounting standards) and not management accounts

7. The TU should disclose in their annual report and/or financial statements aggregate details of the compensation of their key management level broken down by the following categories:
 - a. Salaries and short-term employee benefits by reference to salary grades and scales
 - b. Post-employment benefits; and
 - c. Termination benefits.The TU shall also disclose key management personnel compensation in total. **(6.4(v) –THEA Code of Governance)**
8. Termination/severance payments and agreements - The financial statements should disclose details of payments and agreements (with a value in excess of €10,000) made in the reporting period. These would include severance/termination payments, granting of added years for pension purposes or early retirement without normal actuarial reductions. **(6.3 – THEA Code of Governance)**
9. Travel and subsistence - The financial statements should disclose the total costs incurred in relation to travel and subsistence broken down between national and international travel. **(6.3 – THEA Code of Governance)**
10. Hospitality expenditure - The financial statements should disclose the aggregate total expenditure incurred in relation to hospitality in the period. (This would include Christmas parties, retirement parties, expenditure on staff wellbeing, contribution to sports and social clubs, One4all vouchers, retirement/leaving gifts, flowers, etc.) **(6.3 – THEA Code of Governance)**
11. Legal Costs/settlements – in cases where cumulative legal costs incurred in the year of account exceed €50,000, a note should be included in the financial statements with a breakdown of the total costs as between legal fees and compensation paid. **(6.3 – THEA Code of Governance)**

Appendix I Checklist for Annual Governance Statement and Statement of Internal Control

Items for inclusion in the Annual Governance Statement to the Minister/HEA include the following:

1. The Annual Governance Statement regarding the system of internal control (**paragraph 6.10(v) – Code of Governance**) should be included in the TU's annual report. This statement should be reviewed by the Comptroller and Auditor General to confirm that it reflects the TU's compliance with the requirements of paragraph 6.9(v) and is consistent with the information of which they are aware from their audit work on the financial statements. The Comptroller and Auditor General should include their report on this matter in their audit report on the financial statements. **(6.6– Code of Governance)**
2. The Annual Governance Statement should include a statement on the system of internal control in the format set out in Appendix J and include, in cases where a breach of this system has been identified, an outline of the steps that will be taken to guard against such a breach occurring in future. **(6.10(v) - Code of Governance)**
3. Outlining all commercially significant developments affecting the TU in the preceding year, including the establishment of subsidiaries or joint ventures and share acquisitions, and major issues likely to arise in the short to medium term. **(6.10(ii) - Code of Governance)**
4. The Annual Governance Statement should provide summary details of all TU's off-balance sheet financial transactions³⁷ that are not disclosed in the annual report and financial statements of the TU, including information on the nature, purpose and financial impact of the off-balance sheet financial transactions. The contents and format of this section of the report should be agreed in advance with the Minister for Further and Higher Education, Research, Innovation and Science /HEA. **(6.10(iii) - Code of Governance)**
5. Affirming that all appropriate procedures for financial reporting, internal audit, travel, procurement and asset disposals are being carried out. **(6.10(iv) - Code of Governance** For example, details of and explanations for the disposals of assets or grants of access to property or infrastructure for commercial arrangements with third parties above the threshold of €150,000 which have not been subject to auction or competitive tendering process should be included. **(8.36- Code of Governance)**
6. Affirming that Codes of Conduct for the Governing Body and Employees have been put in place and adhered to. **(6.10(vi) - Code of Governance) (1.9(v) - Business and Financial Reporting Requirements Document)**
7. Affirming that Government pay guidelines on the pay of President and all TU's employees are being complied with. **(6.10(vii) - Code of Governance)**
8. Affirming that Government guidelines on the payment of Governing Body members' fees are being complied with. **(6.10(vii) – Code of Governance)** The Annual Governance Statement should also include a schedule of the fees and aggregate expenses paid to each of the Board members. **(6.10(vii) – Code of Governance)**

³⁷ As a guide, off-balance sheet transactions are arrangements that give rise, or may give rise, to an asset or liability in excess of €10m, or 2% of the total assets of the company, whichever is the smaller that is not recognised on the State body's own balance sheet (or the State body's consolidated group sheet), including, for example, leases, letters of credit, guarantees, derivatives, sale of receivables, debt or debt-like instruments of non-consolidated equity interests or joint ventures.

9. As part of the Annual Governance Statement, the Chairperson should affirm that the Government pay guidelines are being complied with in respect of such appointees who serve on the main Board and any subsidiaries of State bodies. (9.17 Code of Governance)
10. Explaining failure to comply with any of the above and stating any corrective action taken or contemplated. (6.10(xxix) - Code of Governance)
11. Outlining significant post balance sheet events. (6.10(xi) - Code of Governance)
12. Confirming that the appropriate requirements of the Public Spending Code are being complied with. (6.10(xii) - Code of Governance)
13. Confirming that procedures are in place for the making of protected disclosures in accordance with section 21(1) of the Protected Disclosures Act 2014 and confirmation that the annual report required under section 22(1) of the Act has been published; (6.10(xiii) - Code of Governance)
14. Certifying that Government travel policy requirements are being complied with in all respects. (6.10(xiv) - Code of Governance)
15. The Annual Governance Statement should include the confirmation that the TU has complied with its obligations under tax law. (6.9(xvi) - Code of Governance)
16. Providing details of/information on legal disputes involving other State bodies. (6.10(xvii) - Code of Governance)
17. Confirming that the 2018 Code of Governance for the Governance of State Bodies has been adopted and the extent to which the State body is in compliance with the Code. (6.10(i) - Code of Governance)
18. Stating that any subsidiary of the TU (or subsidiary thereof) continues to operate solely for the purpose of which it was established, remains and continues to remain in full compliance with the terms and conditions of the consent under which it was established. (6.10(xviii) – Code of Governance)
19. The Chairperson should report to the Minister/HEA on significant commercially sensitive developments in the preceding 12 months and likely developments for the rest of the year. (6.11- Code of Governance)
20. The Chairperson should, in the Annual Governance Statement to the Minister affirm adherence to the relevant procurement policy and procedures and the development and implementation of the Corporate Procurement Plan. (8.18 – Code of Governance)
21. Non-competitive procurement should be reported in the Annual Governance Statement to Minister. (8.14 – Code of Governance)
22. Affirming that Government guidelines on the payment of Governing Body members’ fees are being complied with. The Annual Governance Statement should also include a schedule of the fees and aggregate expenses paid to each of the Board members. (9.16 – Code of Governance)
23. Outlining details of the engagement and associated costs of external consultancy firms and investigators contracted to carry out investigations and enquiries on internal matters. (6.10 xix- Code of Governance)
24. Confirmation that foundations and trusts (if applicable) have been or will be incorporated into the financial statements of the TU or included as an appendix to the financial statements. (6.10 xx- Code of Governance)
25. Confirming the number of Audit Committee meetings held during the financial year in question and attendance record of members. (6.10 xxi- Code of Governance)

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| 26. Confirming that the Governing Body reviews its own performance and that it commissions an external review at the middle and end of each term of the Governing Body. Confirmation should also be provided on when both internal and external reviews were last carried out and when both will be carried out again. (6.10 xxii- Code of Governance) |
| 27. Confirming that the TU has satisfied itself as to the integrity and robustness of any data on student numbers provided to the HEA for the purpose of calculating and allocating the core grant. (6.10 xxiii- Code of Governance) |
| 28. Confirming that fees and/or expenses paid to members of Governing Body are in accordance with the guidelines from the Department of Finance. (6.10 xxiv- Code of Governance) |
| 29. Confirming that fees and/or expenses paid to members of Governing Body are presented in the TU's Annual Report. (6.10 xxv- Code of Governance) |
| 30. A note on the schedule of fees and aggregate expenses payable to external Governing Body members should be included. (6.10 xxvi- Code of Governance) |
| 31. Confirmation that an appropriate code of governance is in place in respect of trading subsidiaries (i.e. subsidiaries with annual turnover and employees), with annual statements provided to the Governing Body and the Board has received a formal report of compliance from the Chairperson of the Board of each subsidiary. (6.10 xxvii- Code of Governance) |
| 32. Description of other governance and accountability issues that the TU may wish to bring to the attention of the HEA. (6.9 xxviii- Code of Governance) |
| 33. In the event that the TU fails to comply with any of the above the TU shall report such matters of non-compliance to the HEA providing an explanation for same and stating any corrective action taken or contemplated. (6.9 xxix- Code of Governance) |

The above is a model template. Universities should satisfy themselves that they are using the latest version available from the HEA.

A statement on the system of internal controls should include the following items:

1. Acknowledgement by the Chairperson that the Governing Body is responsible for the TU's system of internal control.
2. An explanation that such a system can provide only reasonable and not absolute assurance against material error.
3. Description of the key control procedures tailored to reflect the size and complexity of the TU in order to provide a full understanding of the procedures, which have been put in place by the Governing Body, to provide effective internal control.
 - i) A statement in relation to when the annual review of the effectiveness of control was conducted or where such a review was not conducted, a statement that it was not conducted.
 - ii) Disclosure of details regarding instances where breaches in control occurred – such breaches might include non-compliance with procurement rules or instances where other elements of the control system (e.g. internal audit, Audit and Risk Committee or other committees) were not operational.
 - iii) Disclosure of details of any material losses or frauds.
 - iv) Statement on System of Internal Controls is to be reviewed by the Audit and Risk Committee and the Governing Body to ensure it accurately reflects the control system in operation during the reporting period.
 - v) Statement on System of Internal Controls is to be reviewed by the Comptroller and Auditor General to confirm that it reflects the TU's compliance with the requirements of paragraph 6.10 (v) and is consistent with the information of which they are aware from their audit work on the financial statements and where this is not the case, the Comptroller and Auditor General should report on this in the audit report on the relevant financial statement.
 - vi) the steps taken to ensure an appropriate control environment (such as clearly defined management responsibilities);
 - vii) processes used to identify business risks and to evaluate their financial implications;
 - viii) details of the major information systems in place such as budgets, and means of comparing actual results with budgets during the year;
 - ix) the procedures for addressing the financial implications of major business risks (such as financial instructions and notes of procedures, delegation practices such as authorisation limits, segregation of duties and methods of preventing and detecting fraud); and
 - x) the procedures for monitoring the effectiveness of the internal control system which may include: Audit and Risk Committees, management reviews, consultancy, inspection and review studies, the work of internal audit, quality audit reviews and statements from the heads of internal audit.
4. Confirmation that there has been a review of the effectiveness of the system of internal control.
5. Information (if appropriate) about the weaknesses in internal control that have resulted in material losses, contingencies or uncertainties which require disclosure in the financial statements or the auditor's report on the financial statements.
6. The information relating to weaknesses in internal control should be a description of the action taken, or intended to be taken, to correct the weaknesses, or an explanation of why no action is considered necessary.
7. Confirmation that the TU is in compliance with current procurement rules and guidelines as set out by the Office of Government Procurement.

Appendix J HEA Template's for Annual Governance Statement and Performance Compact

Annual Governance Statement:

Please see link below to the HEA template for the Annual Governance Statement:

<http://hea.ie/resources/publications/annual-governance-statement-template>

Performance Compact:

Please see link below to the HEA template for the Performance Compact:

<http://hea.ie/resources/publications/mission-based-performance-compact-template>

Appendix K HEA Financial Memorandum

Financial Memorandum between the HEA and Higher Education Institutions

The financial memorandum has an effective date of 01 January 2017.

Preamble

1. This memorandum sets out the formal relationship between the Higher Education Authority ('the Authority') and each higher education institution ('the institution'). The foundation of the relationship is provision of funding by the Authority to the institution, in accordance with relevant legislation and public policy and accountability for this funding within statutory and other agreed accountability frameworks detailed in the covering statement from the HEA (Appendix)
2. The basis for the relationship is laid down in relevant legislation, statutes, charters, articles and instruments of governance, particularly those which establish the Authority and the institution and regulate their governance, and those which establish the degree of their autonomy and set out their powers and duties.
3. For these arrangements to be effective the Authority and the institution have to work in partnership to achieve agreed objectives for higher education and to secure best value for funds provided by the State.
4. The Authority recognises that the Institution may also undertake activities and have to comply with legislation and regulation which fall outside the scope of this partnership.

Purpose of the memorandum

Accordingly, this memorandum sets out the agreed expectations which the institution, in the spirit of constructive partnership, has a right to have of the Authority. It also sets out the Authority's expectations of the institution and the requirements which are a condition of the Authority's funding.

What the Institution can expect of the Authority

1. The Authority will conduct its affairs at all times to the highest accepted standards for public sector bodies and in accordance with principles set out in the Code of Practice for the Governance of State Bodies. It will act reasonably on the basis of the fullest available evidence and objective analysis. Subject to any legal requirement to observe confidentiality, it will be open and transparent with the institutions it funds and other stakeholders and will give or be prepared to give a public justification of all its decisions.
2. The Authority in line with the Code of Practice for State Bodies will maintain a policy of openness and transparency in relation to the work of the Authority and the services it aims to provide.
3. The Authority will maintain regular and frequent dialogue with institutions and their representative bodies where it seems appropriate in order to:
 - promote a shared understanding of the aspirations, needs and concerns of the various stakeholders;
 - support the beneficial impact of institutions' collaborative activities; and
 - better enable it to provide the information, advice and assistance required by the Department of Further and Higher Education, Research, Innovation and Science, other government departments or agencies.
4. The Authority will not substitute its judgements for those which are properly at the discretion of institutions. In particular, the Authority will seek to maximise the autonomy of institutions to use block grants provided by the Authority.
5. In discharging its duty to monitor and publish the performance of the institution generally and on specific projects, the Authority will, as far as possible, rely on the data and information used by the institution for its own purposes or in formats that are most useful and most easily provided by the institutions, consistent with requirements. The Authority will not seek to collect the same data and information more than once from the institution.
6. The Authority will allocate and pay grants in a timely manner to the institution in accordance with current policies and procedures. The institution will be consulted in advance and given as much notice as possible of any significant change to these policies and procedures and of significant changes in overall funding levels.
7. The Authority needs to be satisfied that the institution has put in place the structures and procedures necessary to ensure compliance with this memorandum, including delivery on agreed outputs as specified in the compact agreed between the HEA and the institution and the achievement of best value from recurrent funding provided by the State.
8. The Authority will obtain evidence from the institution, which will include undertaking reviews as required (but only by prior arrangement), to provide the assurances required to discharge this responsibility as laid out in point 7 above.
9. Where the Authority has insufficient information to provide the assurance required, the Authority will in the first instance, seek to resolve matters with the President of the institution. Where this has not proved possible, the Authority will inform the chair of the governing body and the institution's President in writing and without delay of any

significant concern of the Authority about the conduct of the institution. Only after such notification and where the circumstances warrant it, the Authority may consider whether it is appropriate to hold back or suspend the payment of any or all grants to the institution. The Minister for Further and Higher Education, Research, Innovation and Science will be kept informed.

What the Authority can expect of the Institution

The following paragraphs state the Authority's expectations of the institution and the requirements which are a condition of the Authority's funding.

1. The Authority must be able to rely on the whole system of governance, management and conduct of the Institution to safeguard all funds of the Institution deriving from the Exchequer and to achieve the purposes for which those funds are provided. As a recipient of public funds, the institution will strive to achieve at all times good practice in the governance, management and conduct of the institution.
2. The governing body/ authority will ensure that it has in place and effectively implemented the proper arrangements for governance, leadership and management of the institution as required by statute, charter, its instrument and articles of governance and the agreed Codes of Governance in place for the universities.
3. Respecting the primacy of the institution's own statutory obligations, the governing body/ authority will ensure that:
 - I. public funds are used in accordance with relevant legislation and only for the purposes for which they are given;
 - II. the institution strives to achieve best value from its use of public funds from all sources;
 - III. annual financial statements are provided in a timely manner for audit by the OCAG;
 - IV. there is effective planning and delivery of the institution's education programmes, research and related activities, which is consistent with the institution's mission and takes account of potential for collaboration with relevant partner Institutions/clusters;
 - V. the institution obtains sufficient data and information of a quality to enable it to determine how well the Institution is achieving its goals. Such information will be made available to the Authority on request as necessary for the exercise of its statutory functions;
 - VI. the institution takes appropriate account of the national objectives set out for the sector in the Higher Education System Performance Framework.
 - VII. the institution is actively engaged in seeking continuously to enhance the quality of its programmes and services and to involve students, students unions, employers, partner institutions/clusters and other stakeholders in these processes;
 - VIII. there are in place up-to-date and readily accessible procedures for handling complaints by students, staff and others;
 - IX. the governing body's and the institution's activities are conducted in an appropriately open, transparent and fully accountable manner;
 - X. the institution plans and manages the deployment of its resources in an efficient way
 - XI. the governing body and the institution adheres to the Authority's mandatory requirements (as notified to the institution and set out below) and the institution takes account of relevant public policy and good practice in the

management of all its activities and resources Including its:

- XII. staff, human resources and industrial relations practices;
- XIII. estates and equipment; and
- XIV. finances, and risk and internal control procedures.

4. The President of the institution must inform the Authority without delay of any circumstance that is having, or is likely to have, a material adverse effect on the financial position of the institution or its ability to maintain its capacity to deliver relevant education programmes, research and related activities.

5. The President of the institution shall, when required, give evidence to the Committees of Dall Éireann on

- The regularity and propriety of the institution's accounts
- The economy and efficiency of the institution in the use of its resources
- The systems, procedures and practices employed by the institution for the purpose of evaluating the effectiveness of its operations

6. Mandatory requirements (as appropriate) -

- Agreement of compact with HEA specifying agreed outputs
- Agreement on budgets/financial plans
- Provision of required RGAM returns
- Compliance with public pay policy
- Compliance with relevant Codes of Governance and provision of Annual Statements of Governance and Internal Control
- Compliance with the requirements of the Protected Disclosures Act
- Adherence to Borrowing Framework
- Adherence to Departures Framework
- Compliance with public sector Capital Expenditure requirements
- Compliance with public sector Procurement requirements
- Adherence to approved Format of Accounts
- Compliance with process for Land Purchases in the IoTs

In signing this memorandum, you are confirming on behalf of your institution

- (i) that the funds provided by the HEA as outlined in the grant allocation letter will be used for the purposes intended; and
- (II) that the institution will comply with the Statement of Principles for Grantees (Appendix 2 of Circular 13/2014).

Chief Executive, HEA

President /Provost/Director

Date: _____

Date: _____

Appendix L Framework for a Travel Policy

Introduction

In matters of official travel and subsistence, the TU should adhere to civil service procedures as set-out in guidance issued by the Department of Public Expenditure and Reform, either communicated directly or via the Department of Further and Higher Education, Research, Innovation and Science.

The TU Governing Body should satisfy itself that the principles of its travel policy are adhered to and that the internal audit process is effective in ensuring that the TU is fully complying with the policy.

Governing Body members should be advised of the details of the TU's travel policy. Governing Body members and employees must only claim travel and subsistence allowances in respect of official travel and must not make a claim from more than one State body for the same journey.

Intent and Scope

The purpose of the travel policy should be to ensure that value for money is obtained in respect of each official trip undertaken, consistent with the requirements of official business. Alternatives to frequent travel, such as use of video conferencing facilities, should also be considered.

Domestic Travel

- 1.8.1.1 Maximum use to be made of public transportation options for official travel; the use of taxi services should be rationalised as much as possible.

Air Travel

- 1.8.1.2 A statement of the practice to be followed e.g. the criteria to be applied in choosing either restricted internet fares or fully-flexible economy class fares, where this approach is cost-effective.
- 1.8.1.3 Outline of the exceptional circumstances in which more expensive Business Class options may be considered (the use of premium rates can rarely be justified).
- 1.8.1.4 Frequent flyer points should not influence decisions taken in relation to the carriers used for official business.

Accommodation

- 1.8.1.5 A statement to the effect that if an employee is not required to stay in a particular hotel for business reasons, the standard of hotel used should not be extravagant e.g. that three or four star hotels should be used.

Appendix M Audit and Risk Committee Guidance

Introduction

The purpose of this document is:

- to set out good practice guidance applicable to Audit and Risk Committee under the *THEA Code of Governance for Technological Universities*;
- to provide guidance to the Technological University (TU) in making appropriate arrangements for their Audit and Risk Committee; and
- to assist the Audit and Risk Committee in carrying out their role and responsibilities.

Good practice requires that the Governing Body should ensure that the Audit and Risk Committee arrangements in place are suited to the particular circumstances of the TU.

In general Audit and Risk Committees should be combined, however in some larger entities there may be requirement to have separate Audit and Risk Committees.

Audit and Risk Committee

Guiding Principles

While the Governing Body has a duty to act in the TU's interest, the Audit and Risk Committee has a particular role, acting independently of the TU's Management, to ensure that the interests of Government and other stakeholders are fully protected in relation to business and financial reporting and internal control.

Code Provisions

1.1 Internal Controls: The Governing Body should ensure that there are effective arrangements in place in the TU for governance, risk management and internal control. The Governing Body should be supported by:

- an Audit and Risk Committee; and
- an Internal Audit Unit operating to the International Standards of the Institute of Internal Auditors or equivalent professional standards.

1.2 Audit and Risk Committee: The Governing Body should establish an Audit and Risk Committee of at least 3 independent non-executive Governing Body members (excluding the Chair of the Governing Body) with written terms of reference which deals clearly with authority and duties.

The Governing Body should have due regard for the benefits of diversity on the Audit and Risk Committee including gender.

In general, the Audit and Risk Committees should be combined, however, the TU may agree that these are kept separate.

1.3 Terms of Reference: The roles and responsibilities of the Audit and Risk Committee should be set out in a written terms of reference which should be communicated to all members of the Committee.

The terms of reference for the Audit and Risk Committee should be set by the Governing Body and should include provisions regarding:

- membership;
- reporting requirements;
- authority to investigate;
- meetings – timing, conduct and frequency;
- information requirements;
- value for money;
- governance; and
- responsibilities regarding:
 - risk management;
 - internal control;
 - internal audit;
 - external audit;
 - subsidiary companies and
 - reviewing its own effectiveness.

The Audit and Risk Committee should review on an annual basis their terms of reference and recommend any necessary changes to the Governing Body. It is important that a balance is struck during Audit and Risk Committee meetings between governance, risk management, internal control, and financial reporting items.

Exhibit A: Model Terms of Reference for Audit and Risk Committees

1.4 Chairperson of the Governing Body: The Audit and Risk Committee may invite appropriate persons (including the Chair of the Governing Body) to attend an Audit and Risk Committee for a specific purpose.

1.5 Appointments: Appointments to the Audit and Risk Committee should be made by the Governing Body in consultation with the Chairperson of the Audit and Risk Committee. The Governing Body should satisfy itself that at least one member of the Audit and Risk Committee has recent and relevant financial experience.

1.6 Duration of Appointment: The duration of appointment of Audit and Risk Committee members should be clearly set out at time of appointment. It is recommended that the first appointment be for the term of the Governing Body, which can be renewed for one further term.

1.7 Relevant Skills and Experience: The Audit and Risk Committee should collectively possess an

appropriate range of skills to perform its functions to the required standard. At least one member of the Audit and Risk Committee should have recent, relevant financial experience and other members should have experience in the core areas of its business including risk management, internal audit, governance, relevant technical or specialist issues, an understanding of the public sector environment, in particular the accountability structures, and current public sector reform initiatives.

1.8 Assessment Criteria: There should be formal assessment criteria for the appointment of the Chairperson and other Audit and Risk Committee members. In addition to the skills mix issues outlined above, members should have, or acquire as soon as possible after their appointment, an understanding of:

- organisational culture, objectives and challenges;
- organisational structure including key relationships e.g. the TU's relationship with the Minister, Department of Further and Higher Education, Research, Innovation and Science and the HEA; and
- relevant legislation or other rules governing the TU. Audit and Risk Committee Guidance

1.9 Letter of Appointment: There should be a standard letter of appointment for each new Audit and Risk Committee member, where appropriate, including:

- role of the Audit and Risk Committee;
- duration of appointment and renewal provisions;
- support and training to be provided;
- the time commitment involved;
- level of remuneration (where appropriate);
- rules regarding conflict of interests;
- performance management arrangements; and
- termination arrangements.

Exhibit B: Model Letter of Appointment for an Audit & Risk Committee Member

1.10 Conflict of Interest: The process for recording declarations of conflicts of interest in the Audit and Risk Committee should be the same used at Governing Body level. Each member of the Committee should take personal responsibility to declare any potential conflict of interest arising in relation to any items on the agenda for Audit and Risk Committee meetings.

1.11 Register of Members Interests: A register of Audit and Risk Committee members' interests should be maintained by the Governing Body. Members should be required to declare any potential conflict of interest with any of the business items on the agenda for the Audit and Risk Committee meeting. The Committee should specify its procedures where a conflict of interest arises including the requirement that the relevant member brings this to the attention of the Chairperson and, where necessary, leaves the room for the duration of the discussion and not take part in any decisions relating to the discussion. Similar arrangements should apply in relation to meeting documentation, where such documentation is not made available to the member. This should be noted in the minutes of the meeting.

1.12 Training and Development: There should be a formal induction process in place (including individually tailored training) for new Audit and Risk Committee members. The Audit and Risk Committee and Chairperson should make recommendations to the Governing Body on the

Committee's and individual member's training needs. The Audit and Risk Committee should keep up to date with best practice and developments in corporate governance.

- 1.13 Frequency of Meetings:** The Audit and Risk Committee should meet at least four times a year and invite outsiders with relevant experience to attend meetings if necessary. In the event that four meetings is not considered necessary the Chairperson of the TU should make a statement in the annual report of the TU that they are satisfied that the Audit and Risk Committee discharged its role with fewer than four meetings in a year.
- 1.14 Authority to Investigate:** The Audit and Risk Committee should have explicit authority to investigate any matters within its terms of reference, as well as the resources and outside professional advice it needs to do so, and full access to information.
- 1.15 Relationships:** As the business of the Audit and Risk Committee requires, the President, Secretary/ Financial Controller, Head of Internal Audit and the Comptroller and Auditor General should attend for specific meetings or agenda items at the Committee's request. Executive members of the TU should be invited to attend Audit and Risk Committee meetings to participate in discussions and provide information as required. Executive members of the TU should maintain an appropriate relationship with the Audit and Risk Committee.
- 1.16 Communications:** The Audit and Risk Committee should ensure that it communicates effectively with the Governing Body, the Head of Internal Audit, the Comptroller and Auditor General and other stakeholders. Any internal audit or audit items that relate to the Governing Body's areas of responsibilities should be communicated to the Governing Body as soon as they are identified.
- 1.17 Draft Financial Statements:** The Audit and Risk Committee should review the draft financial statements recognizing the role of the HEA and financial reporting standards, before recommending their adoption by the Governing Body and where possible, before submission for audit taking account of public accountability and the special considerations which attach to TU in relation to their management and operation, consider whether the annual report and financial statements, taken as a whole, is fair, balanced and understandable and provides the information necessary for an assessment of the TU's financial position and financial performance, business model and strategy.³⁸
- 1.18 Comptroller and Auditor General:** The Audit and Risk Committee should annually consult with the Comptroller and Auditor General regarding the operation of the Internal Audit Unit with particular reference to the staffing of the Unit, the audit work programme being applied and the testing carried out in relation to the TU's compliance with the requirements set out in this document.

The Audit and Risk Committee should meet with or otherwise engage with the Comptroller and Auditor General at least once a year without executive Governing Body members present to ensure there are no unresolved issues of concern and to make the Comptroller and Auditor General aware of any emerging risks or governance issues.

³⁸ Adapted from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 1

1.19 Annual Report: The Audit and Risk Committee's annual report to the Governing Body should present its opinion on the adequacy of risk management and internal control systems, and the adequacy of sources of assurance to the Governing Body.

The annual report should include:

- governance issues;
- financial reporting; and
- quality of internal and external audit.

The Committee should also report its view of its own effectiveness with advice on how it can be strengthened and developed.

Where a subsidiary company does not have its own Audit and Risk Committee, the effectiveness of the subsidiary's internal audit activities should be included in The Audit and Risk Committee's annual report to the Governing Body.

1.20 Chairperson of the Audit and Risk Committee: The Chairperson of the Audit and Risk Committee has particular responsibility for ensuring:

- that the Audit and Risk Committee is appropriately resourced;
- the Committee reviews Internal Audit Reports (including those of subsidiaries where appropriate) and management responses and ensures that actions are followed up;
- reports to the Committee contain relevant information and are provided at the right time in an appropriate format;
- absent Committee members are briefed on meetings and attendance records are maintained and reviewed annually;
- they report at Board meetings and submit regular written reports to the Governing Body containing relevant information;
- matters arising are reported on at each subsequent meeting; and
- they are involved in the appointment of new Committee members.

1.21 Appraisal: Appraisal of the Chairperson of the Audit and Risk Committee should be overseen by the Chairperson of the Governing Body.

1.22 Audit and Risk Committee Secretariat: The secretariat to the Audit and Risk Committee should:

- commission papers as necessary and support the Chairperson in preparing reports;
- circulate documents and keep and circulate minutes of meetings to Committee members and to internal and external audit as necessary in good time for meetings;
- for any agreed actions, document the owner, deadline and any advice given by stakeholders and monitor between meetings;
- keep the Committee abreast of development in the TU; and
- maintain a record of members' appointments and termination/renewal dates and ensure that appropriate appointment procedures are initiated when necessary.

Audit and Risk Committee Work Programme

Code Provisions

- 1.1 Audit and Risk Committee Work Programme:** The Audit and Risk Committee's work programme should include:
- i) **Internal Audit Unit:** Monitoring and reviewing the effectiveness of the TU's internal audit activities and consideration of the Internal Audit Unit's independence, expertise, experience and adherence to professional standards.
 - ii) **Scope of Work:** The Audit and Risk Committee should consider the scope of the Internal Audit Unit's work and consider whether the available resources and access to people and information allow the Unit to address significant risks within the TU and its subsidiaries.
 - iii) **Audit Plan:** The Audit and Risk Committee should have an approval role in relation to the Internal Audit Unit audit plan, including the Committee making suggestions regarding risk and problem areas the audit plan should address. The Audit and Risk Committee should also receive regular progress reports from the Internal Audit Unit.
 - iv) **Comptroller and Auditor General:** The Audit and Risk Committee should review Management Letters and Letter of Representations and should be given sight of the organisational responses to the Comptroller and Auditor General Management Letters and reports.
 - v) **Views of the Comptroller and Auditor General:** The Audit and Risk Committee should request the views of the Comptroller and Auditor General on the work and effectiveness of the Audit and Risk Committee. The Audit and Risk Committee should engage with the Comptroller and Auditor General at least annually without executive members being present to ensure that there are no unresolved issues of concern and should make the external auditors aware of the corporate governance issues outlined in the THEA Code of Governance for Technological Universities 2022 with which the TU is required to comply.
 - vi) **Co-operation between the Comptroller and Auditor General and Internal Audit Unit:** The Audit and Risk Committee should encourage co-operation between the Comptroller and Auditor General and Internal Audit Unit and receive confirmation from the Comptroller and Auditor General and the Internal Audit Unit of the effectiveness of their working relationship. This involves a sharing of audit plans to prevent duplication of effort and Internal Audit Unit should provide the external auditor with copies of all completed Internal Audit Unit reports.
 - vii) **Draft Financial Statements:** The Audit and Risk Committee should review draft financial statements before recommending their adoption by the Governing Body and consider whether:
 - accounting policies, completeness of financial statements (including the consolidation of subsidiaries where appropriate), anti-fraud policy and losses are properly recorded and accounted for;
 - suitable processes are in place to ensure regularity, probity and propriety is achieved;
 - issues raised by the Comptroller and Auditor General have been comprehensively and appropriately dealt with;
 - the financial statements present fairly the TU's financial position;
 - the comprehensiveness and meaningfulness of the TU's Statement on Internal Control and review of the Letter of Representation before issue by the TU.
 - viii) The Committee should also consider:
 - the effectiveness and adequacy of the TU's anti-fraud, anti-corruption and protected

- disclosure policies and staff awareness of them;
 - whether financial control, including the delegation structure, enables the TU to achieve its objectives on a value for money basis; and
 - whether the procedures for investment appraisal are fit for purpose and comply with best practice including the principles and relevant requirements of the Department of Public Expenditure and Reform Public Spending Code.
- ix) **Statement on Internal Control:** The Committee should also satisfy itself that the TU's system of internal control operated effectively during the reporting period and that the system of internal reporting gives early warning of internal control failures and emerging risks.

Exhibit C: Checklist for the Effectiveness of Audit and Risk Committees

Exhibit A Model Terms of Reference for Audit and Risk Committees

The Governing Body has established an Audit and Risk Committee as a Committee of the Governing Body to support them in their responsibilities for issues of risk, control and governance by reviewing the comprehensiveness of assurances in meeting the Governing Body's and Accounting Officer's assurance needs and reviewing the reliability and integrity of these assurances.

Membership

The members of the Audit and Risk Committee are:

- non-executive members of the Governing Body: [list those who are appointed to the Audit and Risk Committee];
- independent external members: [list those who are appointed to the Audit and Risk Committee; (in all cases indicate the date of appointment and when the appointment is due to end / become eligible for renewal)];
- the Audit and Risk Committee will be chaired by [name]; and
- the Audit and Risk Committee will be provided with a secretariat function by [name].

Reporting

- the Audit and Risk Committee will formally report in writing to the Governing Body; and
- the Audit and Risk Committee will provide the Governing Body with an Annual Report, timed to support finalisation of the annual report and financial statements, summarising its conclusions from the work it has done during the year.

Responsibilities

The Audit and Risk Committee will advise the Governing Body on:

- the strategic processes for risk, internal control and governance;
- the accounting policies, the financial statements (including subsidiaries as appropriate), and the TU's annual report and the annual operating programmes and budgets, including the process for review of the financial statements prior to submission for audit, levels of error identified, and management's letter of representation to the Comptroller and Auditor General;
- the planned activity and results of both internal and external audit;
- adequacy of management response to issues identified by audit activity, including Comptroller and Auditor General's management letter of representation;
- assurances relating to the management of risk and corporate governance requirements for the TU and its subsidiaries as appropriate;
- proposals for tendering for internal audit services or for purchase of non-audit services from contractors who provide audit services;
- anti-fraud policies, protected disclosure processes, and arrangements for special investigations; and
- the Audit and Risk Committee will also periodically review its own effectiveness and report the results of that review to the Governing Body.

Rights

The Audit and Risk Committee may:

- co-opt additional members to provide specialist skills, knowledge and experience; and
- procure specialist ad-hoc advice at the reasonable expense of the TU, subject to budgets agreed by the Governing Body.

Access

The Head of Internal Audit or the Internal Audit Service Provider and the representative of the Comptroller

and Auditor General will have free and confidential access to the Chairperson of the Audit and Risk Committee.

Meetings

- The Audit and Risk Committee will meet at least four times a year. The Chairperson of the Audit and Risk Committee may convene additional meetings, as they deem necessary;
- a minimum of [number] members of the Audit and Risk Committee will be present for the meeting to be deemed quorate;
- as the business of the Audit and Risk Committee requires the Chief Executive, the Secretary/ Financial Controller, Head of Internal Audit, and a representative of the Comptroller and Auditor General should attend for specific meetings or agenda items at the Committee's request [add any others who may routinely attend];
- the Audit and Risk Committee may ask any other officials of the TU to attend to assist it with its discussions on any particular matter;
- the Audit and Risk Committee may ask any or all of those who normally attend but who are not members to withdraw to facilitate open and frank discussion of particular matters; and
- The Governing Body may ask the Audit and Risk Committee to convene further meetings to discuss particular issues on which they seek the Committee's advice.

Information Requirements

For each meeting the Audit and Risk Committee will be provided, in accordance with Governing Body standing order provisions, with:

- a report summarising any significant changes to the TU's strategic risks and a copy of the strategic/corporate Risk Register;
- a progress report from the Head of Internal Audit summarising:
 - work performed (and a comparison with work planned);
 - key issues emerging from the work of internal audit;
 - management response to audit recommendations;
 - changes to the agreed internal audit plan; and
 - any resourcing issues affecting the delivery of the objectives of internal audit.
- a progress report (written/verbal) from the Comptroller and Auditor General representative summarising work done and emerging findings (this may include, aspects of the wider work carried out by the Comptroller and Auditor General, for example, Value for Money reports and good practice findings);
- management assurance reports; and
- reports on the management of major incidents and lessons learned.

As and when appropriate the Committee will also be provided with:

- proposals for the terms of reference of internal audit / the internal audit charter;
- the internal audit strategy;
- Internal Audit Reports;
- quality assurance reports on the Internal Audit Unit;
- the draft financial statements of the organisation;
- the draft governance statement;
- a report on any changes to accounting policies;
- Comptroller and Auditor General's management letter;
- a report on any proposals to tender for audit functions, where appropriate;
- a report on co-operation between internal and external audit; and
- the TU's risk management strategy.

The list provided suggests minimum requirements for the inputs which should be provided to the Audit and Risk Committee. In some cases more may be provided. For instance, it might be agreed that Audit and Risk Committee members should be provided with a copy of the report of every internal audit assignment.

Exhibit B Model Letter of Appointment for an Audit & Risk Committee Member

It is recommended that the following issues be included in the Letter of Appointment of an Audit and Risk Committee member:

Appointment and Purpose

You are hereby appointed by the [Governing Body] as a member of the Audit and Risk Committee of [Insert name of entity]. As a member of the Audit and Risk Committee you are accountable to the [Governing Body] through the Chairperson of the Committee. Your appointment is for [number] years from [date]]. This appointment may be renewed [number] times (by mutual agreement) after the duration of this appointment.

The Audit and Risk Committee is a Committee of the Governing Body of [Insert name of entity] and the purpose of the Audit and Risk Committee is set out in the attached terms of reference.

A copy of the Audit and Risk Committee's terms of reference is enclosed. The Committee is chaired by [name] and the other members are [names]. [It is recommended that the new member be provided with a list of their contact details]

Support and Training

The Secretary of the Audit and Risk Committee is [name / contact details] and they will shortly be in touch with you to discuss and arrange appropriate induction training.

To help you understand the governance arrangements and the role of the Audit and Risk Committee in the Technological University (TU), a copy of the suite of documents entitled the "THEA Code of Governance for Technological Universities 2022" is enclosed with this letter of appointment.

Commitment and Remuneration

The Committee normally meets [number] times each year, but additional meetings may be required from time to time. [Include, if appropriate, details of amount of remuneration].

Your duties as an Audit and Risk Committee member include time to read papers in preparation for meetings and a programme of activity to keep you in touch with the organisation's activities and priorities.

Conflicts of Interest

If during your period of appointment to the Audit and Risk Committee your personal circumstances change in any way that may provide a conflict of interest for you in your Audit and Risk Committee role, you are to declare the circumstances to the Chairperson of the Audit and Risk Committee.

Appraisal

As a member of the Audit and Risk Committee you may be subject to appraisal by the Audit and Risk Committee Chairperson [include brief details of the appraisal process].

Conduct

Although your appointment does not make you a Public Servant, you are expected to conduct yourself in your role in the TU in accordance with the Code of Conduct for Governing Body Members adopted by the TU.

Termination

If you choose to resign from this appointment you will be expected to give [number] months' notice, unless your circumstances have changed in a way that make it appropriate for you to resign immediately. If your

performance as an Audit and Risk Committee member is decided to be unacceptable or if your conduct (including conflicts of interests) is unacceptable your appointment may be terminated by the Governing Body.

Exhibit C Checklist for the Effectiveness of Audit and Risk Committees

The Role of the Audit and Risk Committee				
The Audit and Risk Committee fulfils an important role in the governance framework of an entity by assisting the Governing Body monitor the internal control environment, risk management and financial reporting and internal and external audit unit. The Committee does not undertake management responsibilities and is not a substitute for entity management controls and accountabilities.	Y	N	N/A	Comment / Action Required
1. Is there a written terms of reference, setting out the roles and responsibilities of the Audit and Risk Committee and its members, and has it been communicated to all members?				
2. Do the terms of reference include the provisions as set out in paragraph 1.3 of this document?				
3. Do the terms of reference require the Audit and Risk Committee to regularly review its own effectiveness? If so, when was the last time such a review was carried out?				
4. Does the Audit and Risk Committee meet at least four times a year?				
Membership, Independence, Objectivity and Understanding				
The Audit and Risk Committee should be independent and objective. In addition, each member should have a good understanding of the objectives and priorities of the TU and of their role as a Committee member.	Y	N	N/A	Comment / Action Required
Membership and Terms of Appointment				
5. Does the Audit and Risk Committee have at least three, or in the case of smaller entities such as subsidiaries of the TU, two, independent non-executive Governing Body/Board members?				
6. For what duration are Audit and Risk Committee members appointed?				
7. Is there a standard letter of appointment for new Audit and Risk Committee members and does it include: <ul style="list-style-type: none"> ▪ role of Audit and Risk Committee? ▪ duration of appointment and renewal provisions? ▪ the support and training to be provided? ▪ the time commitment involved? ▪ level of remuneration (where appropriate)? ▪ rules regarding conflicts of interest? ▪ performance management arrangements ▪ termination arrangements? 				

Independence				Y	N	N/A	Comment / Action Required
8. What is the breakdown of Audit and Risk Committee members and Chairperson in terms of executive Governing Body members, non-executive Governing Body members and external members?							
9. Is the Audit and Risk Committee Chairperson different to the Chairperson of the Governing Body?							
Relationship with the Executive and Other Participants				Y	N	N/A	Comment / Action Required
10. Are the executive members of the organisation invited to attend Audit and Risk Committee meetings, participate in discussions and provide information to the Audit and Risk Committee as required?							
11. Do the President, Secretary /Financial Controller, Head of Internal Audit and the Comptroller and Auditor General routinely attend all Audit and Risk Committee meetings? If not, do they attend for specific meetings or specific agenda items, at the request of the Committee?							
Managing Conflicts of Interest				Y	N	N/A	Comment / Action Required
12. Is there a register of Audit and Risk Committee members' interests?							
13. Are members regularly required to declare any potential conflict of interest with any of the business items on the agenda for Audit and Risk Committee meetings?							
14. In instances where a member declares an interest in an agenda item, what action is taken?							
Skills and Experience				Y	N	N/A	Comment / Action Required
The Audit and Risk Committee should collectively possess an appropriate range of skills (skills mix) to perform its functions to the required standard.							
15. Are there formal assessment criteria for the appointment of the Audit and Risk Committee Chair?							
<p>Does the assessment criteria for Audit and Risk Committee members include (or expect members to acquire as soon as possible after appointment) an understanding of:</p> <ul style="list-style-type: none"> ▪ the TU's culture, objectives and challenges? ▪ the TU's structure, including key relationships such as that with the Minister and Department of Further and Higher Education, Research, Innovation and Science? ▪ relevant legislation or other rules governing the TU? 							

17. Does the Audit and Risk Committee corporately possess knowledge, skills and experience of: <ul style="list-style-type: none"> ▪ accountancy/finance – with at least one member having recent and relevant financial experience? ▪ governance, assurance and risk management? ▪ audit? ▪ technical or specialist issues pertinent to the TU’s business? ▪ the wider environments, including the Government and accountability structures, in which the TU operates? 				
Access to Additional Skills	Y	N	N/A	Comment / Action Required
18. Is the Audit and Risk Committee empowered to co-opt members on a short-term basis to provide specialist skills needed at a particular time? When was the last time this was done?				
19. Can the Audit and Risk Committee procure specialist advice (at reasonable and approved expense to the TU) on an ad-hoc basis, to assist the members with specific areas of Committee business? When was this last done?				
Training and Development	Y	N	N/A	Comment / Action Required
20. Is there a formal induction process (including individually tailored training) for new Audit and Risk Committee members?				
21. Does the Audit and Risk Committee and the Chairperson make recommendations to the Governing Body on the Committee’s and individual members training needs?				
22. Does the Audit and Risk Committee keep up to date with best practice and developments in corporate governance? How is this done?				
Scope of Work	Y	N	N/A	Comment / Action Required
The scope of the Audit and Risk Committee’s work should be defined in the terms of reference, and encompass all of the assurance needs of the Governing Body or the President, including particular engagement with the work of the internal and external audit and financial reporting issues.				
Relationship with Internal Audit				
23. Does the Audit and Risk Committee monitor and review the effectiveness of the Internal Audit Unit?				
24. Does the Audit and Risk Committee consider that the independence, experience, expertise and professional standard of the internal audit team are appropriate for the TU?				
25. Does the Audit and Risk Committee consider whether the scope of internal audit work, the resources at its disposal and their access to information and people allow it to address significant risks within the TU?				
26. Does the Audit and Risk Committee receive regular progress reports on work undertaken by the Internal Audit Unit?				
27. Does the Audit and Risk Committee review internal audit reports and management responses to issues raised, and monitor the progress made on internal audit recommendations?				

28. Does the Head of Internal Audit have direct access to the Chairperson of the Audit and Risk Committee?				
Relationship with the Comptroller and Auditor General	Y	N	N/A	Comment / Action Required
29. Does the Audit and Risk Committee periodically request the views of the Comptroller and Auditor General on the work and effectiveness of the Audit and Risk Committee?				
30. Does the Audit and Risk Committee consider the Comptroller and Auditor General management letter and other relevant reports and the management response, and monitor the progress made on the recommendations?				
31. Does the Audit and Risk Committee meet the Comptroller and Auditor General at least once a year, without executive Governing Body members being present, to discuss any issues of concern?				
Relationship between Internal and External Audit	Y	N	N/A	Comment / Action Required
32. Does the Audit and Risk Committee seek confirmation from internal audit and the Comptroller and Auditor General on the effectiveness of their relationship?				
Fraud	Y	N	N/A	Comment / Action Required
33. Does the Audit and Risk Committee consider whether anti-fraud and corruption policies and procedures are in place and operating effectively?				
34. Does the Audit and Risk Committee consider whether there is an anti-fraud policy and code of conduct and its distribution to employees?				
Internal Control	Y	N	N/A	Comment / Action Required
35. Does the Audit and Risk Committee satisfy itself that the system of internal control has operated effectively throughout the reporting period and that the system of internal reporting gives early warning of control failures and emerging risk?				
36. Does the Audit and Risk Committee consider whether the Statement on Internal Control is sufficiently comprehensive and meaningful?				
37. Does the Audit and Risk Committee consider whether financial control, including the structure of delegations, enables the TU to achieve its objectives and achieve good value for money?				
Financial Reporting	Y	N	N/A	Comment / Action Required
38. Does the Audit and Risk Committee review the draft of the financial statements?				

39. Before the Accounting Officer/President signs off the financial statements, does the Audit and Risk Committee consider whether:				
<ul style="list-style-type: none"> ▪ accounting policies, completeness of financial statements, anti-fraud policy and losses are properly recorded and accounted for? ▪ there has been a robust process in preparing the financial statements to ensure completeness and whether appropriate processes are in place to ensure accurate accounting records are maintained? ▪ suitable processes are in place to ensure regularity, probity and propriety are achieved? ▪ issues raised by the Comptroller and Auditor General have been given appropriate attention? ▪ the comprehensiveness and meaningfulness of the TU's Statement on Internal Control and review of the Letter of Representation before issue by the TU? 				
Communication				
The Audit and Risk Committee should ensure it has effective communication with the Governing Body, the Head of Internal Audit, the Comptroller and Auditor General, and other stakeholders.	Y	N	N/A	Comment / Action Required
40. Does the Audit and Risk Committee provide an annual report to the Governing Body?				
41. Does the annual report of the Audit and Risk Committee present the Committee's opinion about:				
<ul style="list-style-type: none"> ▪ the adequacy of risk management and internal control systems? ▪ the adequacy of sources of assurance for same? ▪ governance issues and concerns? ▪ financial reporting for the year? ▪ quality of internal and external audit? ▪ the Audit and Risk Committee's view of its own effectiveness, including advice on ways in which it considers it needs to be strengthened or developed? 				
42. Does the Chairperson of the Audit and Risk Committee have open lines of communication with the Governing Body, the Head of Internal Audit and the Comptroller and Auditor General?				
43. Do reports to the Audit and Risk Committee communicate relevant information at the right frequency, time and format to be effective?				
The Role of the Audit and Risk Committee Chairperson				
The Chairperson of the Audit and Risk Committee has responsibility for ensuring that the work of the Committee is effective, that the Committee is appropriately resourced, and that it is maintaining effective communication with stakeholders.	Y	N	N/A	Comment / Action Required
Monitoring Actions				
44. Does the Chairperson of the Audit and Risk Committee ensure that members who have missed a meeting are appropriately briefed on the business conducted in their absence?				
Appraisal				
	Y	N	N/A	Comment / Action Required

45. Are records of attendance maintained and reviewed annually by the Governing Body? What was average attendance over the three preceding years?				
46. Does the Audit and Risk Committee Chairperson ensure that Committee members are provided with an appraisal of their performance as a Committee member?				
47. Does the Audit and Risk Committee Chairperson seek appraisal of their performance from the Accounting Officer or Chairperson of the Governing Body?				
Appointments	Y	N	N/A	Comment / Action Required
48. Is the Chairperson involved in the appointment of new Audit and Risk Committee members, including providing advice on the skills and experience required of the new individual?				
Audit and Risk Committee Support	Y	N	N/A	Comment / Action Required
The TU should provide its Audit and Risk Committee with appropriate secretariat support to enable it to be effective. This is more than a minute-taking function, it involves providing active support for the work of the Committee and helping its members to be effective in their role.				
49. Is the Audit and Risk Committee supported by a secretariat?				
50. Does the Audit and Risk Committee secretariat: <ul style="list-style-type: none"> ▪ commission papers as necessary to support agenda items? ▪ circulate meeting documents and meeting minutes to all Committee members, internal audit and C&AG in good time before each meeting? ▪ for any agreed actions, document the owner, deadline and any advice given by stakeholders and monitor between meetings? ▪ keep the Committee abreast of development in the TU? ▪ maintain a record of when members' terms of appointment are due for renewal or termination? ▪ ensure that appropriate appointment procedures are initiated when required? 				

Appendix N Governing Body Self-Assessment Evaluation Questionnaire

Governing Body Self-Assessment Evaluation Questionnaire

To be completed by the Chairperson and each Governing Body member of the Technological University (TU)

Instructions for Completion:

The intention is that each Governing Body member will complete this self-assessment questionnaire independently. The Chairperson of the Governing Body, after collating and reviewing the responses, should lead a discussion on the key issues arising from the questionnaire. The focus of the discussion should be on areas where improvement is required or where there is a wider variation in responses to the issues raised in the questionnaire.

The results of the self-assessment questionnaire and any actions arising should be reported to the Governing Body for further discussion. The TU may wish to tailor this self-assessment questionnaire to the particular circumstances of the TU giving more weight to certain aspects of the questionnaire depending on the nature, scale and responsibilities of the TU. This will be influenced by the following factors:

- The TU's governing legislation;
- The Governing Body's terms of reference;
- The environment within which the TU operates.
- The maturity of the Governing Body; and
- The TU's corporate governance arrangements and performance.

Scoring is as follows:

1 = Very Dissatisfied

2 = Dissatisfied

3 = Neither Satisfied nor Dissatisfied

4 = Satisfied

5 = Very Satisfied

Governing Body Self-Assessment Evaluation Questionnaire						
Role of the Governing Body	Score					What could be done differently?
	Dissatisfied		Satisfied			
1. Are you satisfied that the Governing Body has clearly documented its role and responsibilities, such as compiling a formal schedule of matters specifically reserved to it for decision? (1.7)	1	2	3	4	5	
2. Are you satisfied that the formal schedule of matters reserved for decision by the Governing Body is up-to-date and reviewed regularly?	1	2	3	4	5	
3. Are you satisfied that the Governing Body, as a group, understands its role and responsibilities including its stewardship role?	1	2	3	4	5	
4. Are you satisfied that the Governing Body has ensured that the Chairperson keeps the Minister advised of matters arising in respect of the TU? (1.6)	1	2	3	4	5	
5. Are you satisfied that the Governing Body has fulfilled its key role in setting the ethical tone of the TU, not only by its own actions, but also in overseeing senior management and staff at all levels of the TU? (1.2)	1	2	3	4	5	
6. Are you satisfied that the Governing Body has reviewed the controls and procedures adopted by the TU to provide itself with reasonable assurance that such controls and procedures are adequate to secure compliance by the TU with statutory and governance obligations? (1.3)	1	2	3	4	5	
7. Are you satisfied that the Governing Body has taken all necessary steps to make themselves aware of, and accessed all relevant information relating to, the TU, Government and the public sector as necessary? (1.5)	1	2	3	4	5	
8. Are you satisfied that Governing Body members have a sufficient understanding of the TU and the sector within which it operates?	1	2	3	4	5	
9. Are you satisfied that the Governing Body has put in place a formal process for setting strategy including the preparation and adoption of a strategic plan? (1.15)	1	2	3	4	5	
10. Are you satisfied that the TU's mission and vision have been defined and communicated to all levels within the organisation?	1	2	3	4	5	

Governing Body Self-Assessment Evaluation Questionnaire						
Oversight Agreement	Score					What could be done differently?
	Dissatisfied				Satisfied	
11. Are you satisfied that the TU has a robust written oversight agreement with the Minister/ Department of Further and Higher Education, Research, Innovation and Science which clearly defines the terms of the TU's relationship with the Minister/ Department? (8.3)	1	2	3	4	5	
Division of Responsibilities	Score					What could be done differently?
	Dissatisfied				Satisfied	
12. Are you satisfied that the respective roles of the Chairperson and President of the TU have been established and documented by the Governing Body? (1.22)	1	2	3	4	5	
Board Effectiveness	Score					What could be done differently?
	Dissatisfied				Satisfied	
13. Are you satisfied that Governing Body members have the time and appropriate skills and knowledge, updated as required and appropriate to the activities of the TU, to enable them to discharge their respective duties and responsibilities effectively? (4.2)	1	2	3	4	5	
14. Are you satisfied that Governing Body members are provided with appropriate inductions, mentoring and assistance with ongoing professional development by the Secretary of the Governing Body, as required? (3.9)	1	2	3	4	5	
15. Are you satisfied that a culture of openness and debate is promoted in the TU and that all Governing Body members are afforded the opportunity to fully contribute to Governing Body deliberations and meetings, including affording non-executive Governing Body members an opportunity to bring an independent judgement to bear on issues? (1.4) (3.7)	1	2	3	4	5	
16. Are you satisfied that the Governing Body meets sufficiently regularly, that the duration of meetings is sufficient, and that the meeting format is adequate to enable the Governing Body to discharge its duties effectively? (1.7)	1	2	3	4	5	
17. Are you satisfied that Governing Body meeting agendas and other related material are circulated in a timely manner to enable full and proper consideration to be given to important issues?	1	2	3	4	5	
18. Are you satisfied with the quality of the Governing Body papers and minutes (e.g. not overly lengthy, clearly explain the key issues and priorities, consistent, timely)?	1	2	3	4	5	
19. Are you satisfied that the Governing Body spends the majority of its time on strategic issues and not day-to-day management responsibilities?	1	2	3	4	5	

Codes of Conduct and Conflicts of Interests	Score					What could be done differently?
	Dissatisfied				Satisfied	
20. Are you satisfied that updated Codes of Conduct are approved by the Governing Body and circulated to all Governing Body members, management and employees? (5.1)	1	2	3	4	5	
21. Are you satisfied that the procedures relating to the disclosure of the Governing Body members interests are complied with? (5.7)	1	2	3	4	5	
22. Are you satisfied that the Governing Body has adequate procedures in place to monitor and manage potential conflicts of interest and confidential information of management and Governing Body members? (1.11)	1	2	3	4	5	
Business and Financial Reporting	Score					What could be done differently?
Dissatisfied					Satisfied	
23. Are you satisfied the Governing Body ensures that a balanced, true and fair view of the TU's financial performance and financial position is made when preparing the annual report and financial statements of the TU and when submitting these to the Minister? (6)	1	2	3	4	5	
24. Are you satisfied that the Governing Body ensures timely and accurate disclosure is made to the Minister for Further and Higher Education, Research, Innovation and Science on all material matters regarding the TU? (6)	1	2	3	4	5	
Risk Management, Internal Control, Audit and Risk	Score					What could be done differently?
Dissatisfied					Satisfied	
25. Are you satisfied that the Governing Body approves the risk management policies/framework and monitors its effectiveness including reviewing material risk incidents, noting or approving management's actions and maintaining oversight of risk management and high risk issues relating to the TU? (7.1 – 7.2)	1	2	3	4	5	
26. Are you satisfied that the Governing Body fulfils its responsibility for ensuring that effective systems of internal control are instituted and implemented in the TU including financial, operational and compliance controls and risk management? (7.3)	1	2	3	4	5	
27. Are you satisfied that the Governing Body undertakes an annual review of the effectiveness of internal control systems, including such items as presented in paragraph 7.5 of the 2016 Code of Practice? (7.5)	1	2	3	4	5	

Governing Body Self-Assessment Evaluation Questionnaire

Performance Evaluation	Score					What could be done differently?
	Dissatisfied			Satisfied		
28. Are you satisfied that the Governing Body undertakes an annual self-assessment evaluation of its own performance and its committees? (4.6)	1	2	3	4	5	
29. Are you satisfied that issues arising from the evaluation are followed up and that the evaluation process enhances the Governing Body effectiveness?	1	2	3	4	5	
30. Are you satisfied, given the current gender balance on the Governing Body, that the Governing Body is giving appropriate attention to the requirement to provide for gender balance in Board membership?	1	2	3	4	5	
31. Are you satisfied that the Governing Body is adequately recognising the value of differences in its members (e.g., personality, learning styles, and life experiences) and group/social differences (e.g., ethnicity, social class, gender, sexual orientation, disability, membership of the Traveller community, family status, cultural, political, religious, or other affiliations) to improve the quality of work and decision making on the Governing Body?	1	2	3	4	5	
32. Are there specific strategic, policy and operational changes that should be considered in order to address any inadequacies in the provision for gender balance and recognition of the value of difference and diversity in Governing Body membership?	1	2	3	4	5	
The Governing Body's Relationship with Management	Dissatisfied			Satisfied		What could be done differently?
33. Are you satisfied that there are appropriate delegation authorities in place for management and that they are regularly reviewed?	1	2	3	4	5	

Appendix O Other Relevant Legislation and Regulations

Other particularly relevant legislation and regulation are listed below. Please also note that this is not an exhaustive list:

- Children First Act 2015
- Charities Act 2009
- Companies Act 2014
- Data Protection Acts
- Data Sharing and Governance Act 2019
- Disability Act 2005
- Ethics in Public Office Act 1995
- Equal Status Acts 2000-2015
- Freedom of Information Act 2014
- General Data Protection Regulation 2018
- National Vetting Bureau (Children and Vulnerable Persons) Act 2012-2016
- Official Languages Act 2003
- Ombudsman (Amendment) Act 2012
- Protected Disclosures Act 2014
- Quality Assurance (Education and Training) Act 2012
- Standards in Public Office Act 2001
- Safety, Health and Welfare at Work Act 2005

Appendix P Protected Disclosure Model Policy and Procedure

TECHNOLOGICAL UNIVERSITY

Part I: Protected Disclosure (Whistleblowing) Policy

Policy Title: Protected Disclosure (Whistleblowing) Policy.

Policy Number:

Quality Assurance Area Code:

Date Approved:	Date Policy to take effect:	Date Policy was Reviewed:
Approved by:		
Head of Function responsible:		
Document maintained by:		
Reference Documents:		

Revision History

Revision No	Description of Change	Approval Date	Status
1			
2			
3			
4			

Table of Contents

To be populated by TU.

1. EXECUTIVE SUMMARY

1.1 Our Commitment

The Technological University (TU) is committed to maintaining an open culture with the highest standards of honesty and accountability where workers can report any concerns about wrongdoing in confidence.

The TU is a member of the Integrity at Work programme, a Transparency International (TI) Ireland initiative. As part of its commitment to protecting workers who raise concerns of wrongdoing, the TU has signed and complies with the Integrity at Work Pledge to ensure that workers reporting wrongdoing will not face penalisation and that action will be taken in response to the concerns raised. A copy of the Pledge is in Appendix IV.

Workers considering reporting a concern are encouraged to seek free and confidential advice from TI Ireland's Speak Up Helpline at 1800 844 866, which operates Monday to Friday from 10am to 6pm. Enquiries can also be made via secure online form or encrypted text at www.speakup.ie. Further information is available in the [Speak Up Safely video](#) and in the Speak Up Safely Guide and FAQ's located on the staff portal [here](#).

1.2 What is Whistleblowing?

Whistleblowing occurs when a worker raises a concern or discloses information which relates to wrongdoing, illegal practices or unethical conduct which has come to his/her attention through work. This policy is intended to encourage and enable workers to raise concerns within our workplace rather than overlooking a problem. Under this policy a worker is encouraged to raise concerns or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

1.3 Who does the Policy apply to?

This policy applies to all of the TU's workers at all levels. The term 'worker(s)' in this policy refers to employees, contractors, suppliers, agency workers and/or work experience students or trainees, temporary employees and former employees. The term 'worker' does not cover volunteers or students not on work experience.

1.4 Aims of the Policy

The Protected Disclosure (Whistleblowing) Policy sets out the principles the TU will apply in dealing with protected disclosures. The policy is complemented by the Protected Disclosure (Whistleblowing) Procedures. This policy aims to give effect to the obligations and provisions of the Protected Disclosures Act 2014 (the Act) and does not replace any legal reporting or disclosure requirements arising under other legislation. Where statutory reporting requirements or procedures exist, these must be fully complied with.

The intention of the policy and procedures is:

- To provide clear guidance on reporting wrongdoing at work (see section 4.1 for a list of 'relevant wrongdoings')
- To encourage workers to feel confident and safe in raising concerns and disclosing information
- To provide avenues for workers to raise concerns in confidence and receive feedback on any action taken
- To ensure that workers receive a response where possible to their concerns and the information disclosed
- To reassure workers that they will be protected from penalisation or any threat of penalisation
- To make workers aware of support available

1.5 What types of concerns should not be raised under this Policy?

This policy is intended to deal with concerns about wrongdoing as defined in section 4.1 below. Should a worker have a concern in relation to their own employment or personal circumstances in the workplace, it should generally be dealt with by way of the Grievance Procedure. Likewise, concerns arising in regard to workplace relationships should generally be dealt with through the Dignity and Respect policy [Insert relevant references].

1.6 Protection from Penalisation

A worker who makes a disclosure and has a reasonable belief of wrongdoing will not be penalised by the TU, even if the concerns or disclosure turn out to be unfounded. Workers who penalise or retaliate against those who have raised concerns under this Policy will be subject to disciplinary action.

Workers are not expected to prove the truth of an allegation. However, they must have a reasonable belief that there are grounds for their concern. It should be noted that appropriate disciplinary action may be taken against any worker who is found to have made a knowingly false report.

1.7 Confidentiality

The TU is committed to protecting the identity of the worker raising a concern and to ensuring that disclosures are treated in confidence. The focus will be on the wrongdoing rather than on the person making the disclosure. However, there are circumstances, as outlined in the Act, where confidentiality cannot be maintained due to the particular circumstances of a case. Should such a situation arise, the TU will make every effort to inform the worker that his/her identity may be disclosed.

1.8 Raising a Concern Anonymously

A concern may be raised anonymously. However, on a practical level it may be difficult to investigate such a concern and to protect the worker from penalisation that may arise as a result of having made the report. Workers are encouraged to put their names to reports, with the assurance of confidentiality where possible, in order to facilitate appropriate follow-up. This will make it easier for the TU to assess the disclosure and take appropriate action, including an investigation if necessary.

1.9 How to Raise a Concern

The first avenue is internal, and disclosures can be made orally or in writing directly to the TU's Audit & Risk Committee (ARC) (a committee of the Governing Body) via its Chairperson; or to the worker's line manager; or to the Vice President (VP) for Corporate Affairs & Finance. Where a disclosure has been made to the VP Corporate Affairs & Finance and/or the line manager, the disclosure will be passed to the Chair of the ARC for action.³⁹

Detailed guidelines on how to make a disclosure can be found in the TU's Protected Disclosure (Whistleblowing) Procedure.

2. INTRODUCTION

2.1 The TU is committed to the highest possible standards of openness, probity and accountability. The TU has put in place a wide range of rules, regulations, procedures and codes of practice to deliver on its commitments and to deter malpractice, abuse and wrongdoing.

2.2 Malpractice, abuse or wrongdoing will not be tolerated within the TU or in any activities related to the TU. The TU expects members of the TU community who have reasonably held concerns about such malpractice to come forward and voice those concerns, without fear of reprisal.

2.3 This Policy has been introduced by the TU to enable workers to raise concerns and disclose information regarding wrongdoing that has come to their attention in connection with their work, in the knowledge that they can avail of significant employment and other protections if they are penalised by their employer or suffer any detriment for doing so.

2.4 This Policy does not address all possible situations that may arise but is intended to provide guidance on the procedure to make protected disclosures under the Protected Disclosures Act 2014 (the Act).

³⁹ The ARC may refer reports back to the VP Corporate Affairs & Finance and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time.

3. SCOPE

- 3.1 This policy applies to all of the TU's workers at all levels. The term 'worker(s)' in this policy refers to employees, contractors, suppliers, agency workers and/or work experience students or trainees, temporary employees and former employees. The term 'worker' does not cover volunteers or students not on work experience.
- 3.2 This Policy is designed to allow workers, as defined in 3.1, if they have a reasonable belief that wrongdoing has occurred, is occurring or is likely to occur, to disclose information about this wrongdoing through an appropriate channel.

4. RELEVANT WRONGDOING

- 4.1 For a worker to be protected, the subject matter of the disclosure must tend to show one or more relevant wrongdoings and have come to the worker's attention in connection with their work.⁴⁰

Relevant wrongdoings which fall within the scope of this policy are defined by the legislation as:

- a) an offence, has been, is being or is likely to be committed;
 - b) a person has failed, is failing, or is likely to fail to comply with any legal obligation **other than** under the worker's contract of employment;
 - c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - d) that the health or safety of any individual has been, is being or is likely to be endangered;
 - e) that the environment has been, is being or is likely to be damaged;
 - f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has, is or is likely to occur;
 - g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement; or
 - h) that information tending to show any matter outlined above has been, or is likely to be, concealed or destroyed.
- 4.2 A 'protected disclosure' under this policy may be about a relevant wrongdoing:
- That is happening now
 - That took place in the past
 - That is likely to happen
- 4.3 A matter is not a relevant wrongdoing if it is a matter which it is the function of the worker or the worker's employer to detect, investigate or prosecute and does not consist of or involve an act or omission on the part of the employer.

5. PROTECTED DISCLOSURE VS GRIEVANCE

- 5.1 This policy does not generally cover personal complaints or personal grievances or matters otherwise falling under a worker's personal contract of employment or engagement.
- 5.2 Workers are expected to use the most appropriate and relevant procedure in relation to issues as they arise. Where a procedure already exists for the raising of an issue, then the worker is expected to follow the relevant procedure, for example a Grievance Procedure. It is intended that this Policy should not reconsider any matter that has already been addressed through other TU procedures.

⁴⁰ It is worth noting that some workers may share information that falls outside the definition of 'relevant wrongdoing' under the Act. If a worker shares information that is not a relevant wrongdoing as defined under the Act, then they are not protected under the Act. If uncertain, it is important to seek legal advice before making a disclosure.

6. PROTECTION

- 6.1 Workers who make a disclosure under this Policy will not be at risk of losing their job/position or suffering any form of retribution (including those listed in 6.2 below) as a result, except where the worker has been complicit in the malpractice, abuse or wrongdoing itself. So long as they have not been complicit, workers will be protected even if the report is found to be mistaken, provided they:
- Are raising concerns and disclosing information regarding potential wrongdoing that has come to their attention in connection with their work and
 - Have a reasonable belief that the information disclosed tends to show a relevant wrongdoing
- 6.2 A worker cannot be penalised for making a disclosure. Penalisation includes but is not limited to:
- a) Suspension, lay-off or dismissal;
 - b) Demotion or loss of opportunity for promotion;
 - c) Transfer of duties, change of work location, reduction in wages or change in working hours;
 - d) Any discipline, reprimand, or other penalty;
 - e) Unfair treatment;
 - f) Coercion, intimidation or harassment;
 - g) Discrimination, disadvantage or unfair treatment;
 - h) Injury, damage or loss;
 - i) Threat of reprisal.
- 6.3 The TU will not tolerate any harassment or victimisation of a worker who has made a disclosure under this policy (including informal pressures) and commits to assess/investigate all notifications of penalisation and take appropriate action where necessary. Workers who penalise or retaliate against those who have raised concerns under this Policy will be subject to disciplinary action.
- 6.4 Any worker who believes they are being/have been penalised for making a protected disclosure should contact the Chair of the ARC or the Head of HR as soon as possible. Such notifications will be addressed promptly. For further information, see Section 8 of the Protected Disclosures (Whistleblowing) Procedures.
- 6.5 A worker does not need to be certain about the facts in their disclosure, it is sufficient that in the reasonable belief of the worker, the information tends to show one or more relevant wrongdoings and the information came to the attention of the worker in connection with their employment. The worker is not required to investigate their concerns in order for them to have a reasonable belief.
- 6.6 While the TU welcomes the submission of all genuine disclosures, it will nevertheless view very seriously any false or vexatious allegations that are made under this Policy. The TU will regard such allegations as a serious matter which could result in disciplinary action.
- 6.7 The TU will treat all disclosures made under this policy in a confidential and sensitive manner. The identity of the worker making the disclosure (the Discloser) will be protected save for exceptional circumstances such as where it is necessary in the public interest or required by law. At the appropriate time, the identity of the Discloser may need to be revealed if it is necessary for the investigation and in accordance with the principles of natural justice and fair procedures.
- 6.8 Where a decision is taken to disclose the identity of the Discloser, where at all possible, they will be provided with advance notification and the opportunity to make any representations.
- 6.9 Workers who are concerned that their identity is not being protected should notify the Chair of the ARC or the Head of HR as soon as possible. Such notifications will be addressed promptly.
- 6.10 The TU will not ask a worker (or former worker) to waive their right to make a protected disclosure under any circumstances.

7. ANONYMOUS DISCLOSURES

- 7.1 There is a distinction between anonymous disclosures (where identity is withheld by the discloser) and confidential disclosures (where identity is protected by the recipient). Anonymous disclosures made by workers are not excluded from the protections of the Act and the TU will investigate such disclosures to the extent that this is possible in the circumstances.
- 7.2 Anonymous disclosures may be considered at the discretion of the ARC. When exercising this discretion, the ARC shall take into account factors such as:
- The seriousness of the issues raised;
 - The credibility of the disclosure;
 - The likelihood of being able to investigate and confirm the allegation (using alternative sources if possible); and
 - The requirements of fairness with reference to any individual named in the disclosure.
- 7.3 Anonymous disclosures may be less capable of being addressed as it may be difficult to investigate and to corroborate facts. It may also be difficult to protect the worker from any penalisation that may arise as a result of having made a report. The TU encourages workers to put their name to disclosures where possible or to provide a means of continuing communication e.g., an anonymised email address.

8. DISCLOSURE PROCESS

8.1 How to make a Disclosure

- 8.1.1 The legislation provides for a number of avenues of disclosure:
- An Employer/or other responsible person⁴¹
 - A Minister
 - A Trade Union Official or Legal Advisor
 - A Prescribed Person i.e. a Body/Person prescribed by the Minister
 - Others⁴²
- 8.1.2 The first avenue is internal and disclosures for the TU can be made orally or in writing directly to the Institute's ARC via its Chairperson or to the worker's line manager or the Vice President Corporate Affairs & Finance. The ARC is a committee of the Governing Body. The recipient is formally the Chair of the ARC. Where a disclosure has been made to the VP Corporate Affairs & Finance and/or the line manager, the disclosure is passed to the Chair of the ARC for action.⁴³
- 8.1.3 Please refer to the Institute's Protected Disclosure (Whistleblowing) Procedures for further information about making a disclosure.
- 8.1.4 It should be noted that if a disclosure is made during an investigation or disciplinary process, it does not affect either of those distinct processes.

8.2 How the Audit & Risk Committee will handle the matter

- 8.2.1 Within 7 working days of a disclosure being received, the ARC will reply to the worker who made the disclosure:
- Acknowledging that the concern has been received
 - Indicating that the committee is dealing with the matter

⁴¹ In situations where the worker reasonably believes that the relevant wrongdoing relates to the conduct of a person other than their employer, or in situations where someone other than the employer has legal responsibility, the worker may disclose to the relevant responsible person or body.

⁴² 'Others' can include journalists or public representatives. There are very specific criteria for choosing to report in this way, see 8.3.4 below.

⁴³ The ARC may refer reports back to the VP Corporate Affairs & Finance and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time.

- Informing them that further communications will take place
- 8.2.2 Once a report has been received, the ARC or a sub-committee thereof (the 'Review Group') shall carry out an initial assessment to review the issue, establish the factual information and decide the course of action to be taken, if any. Where applicable, a determination will be made as to what steps will be taken as part of any further investigation.
- 8.2.3 Employees of the Institute, including Senior Management, may be called on by the ARC to provide information relevant to the disclosure in order to assist in establishing further facts. Additionally, where appropriate, Senior Management may be asked to assist in the process. Every effort will be made to ensure that any potential conflicts of interest are identified and that a completely objective and impartial process is assured.
- 8.2.4 If the ARC deems it appropriate, they may call on external expertise at their discretion in order to assist them.
- 8.2.5 The ARC should ensure the person who made the Discloser is aware of the timetable for the assessment and is assured that the outcome will be communicated with them in due course.
- 8.2.6 Having carried out the initial assessment, the ARC may decide that the matter should be dealt with under a different policy and, if so, will provide advice to the Discloser as to the steps to take.
- 8.2.7 The ARC may decide that the matter does not meet the criteria of a relevant wrongdoing under the Act (see 4.1) and will advise the Discloser accordingly.
- 8.2.8 Where an investigation is deemed appropriate, a Terms of Reference will be determined with details of who will conduct the investigation and how the investigation will be carried out, whilst ensuring that the principles of natural justice and fair procedures are adhered to.
- 8.2.9 Where it is considered appropriate, the matters raised may be referred to external agencies to investigate, e.g., the Gardaí or through some other form of independent enquiry.
- 8.2.10 The person/persons appointed to carry out the investigation will provide a written report to the ARC detailing their findings and recommendation(s) for consideration.
- 8.2.11 Upon receipt of the Investigator's report, the ARC will decide on the necessary action that is required.
- 8.2.12 The Discloser will be informed in confidence that appropriate action has taken place, however it may not be possible to provide details of that appropriate action.
- 8.2.13 The Discloser has a right to request a review of the outcome of the initial assessment and/or the outcome of any investigation undertaken in respect of the protected disclosure. Such requests should be made to the Chair of the ARC within 10 working days of the Discloser having received a decision.
- 8.2.14 On completion of a review process, the Chair of the ARC will advise the Discloser of the outcome in writing.

For further details on how the ARC will handle disclosures and appeals please also refer to the Institute's Protected Disclosure (Whistleblowing) Procedure.

8.3 Other Avenues of Disclosure

8.3.1 Disclosures can also be made by public sector workers to the Minister for Further and Higher Education, Research, Innovation and Science.⁴⁴

8.3.2 Disclosures made to a legal advisor and/or to a trade union official in the course of obtaining legal advice are also protected under the Act.

Prescribed Persons and Others

8.3.3 A further avenue of disclosure is to a Prescribed Person as outlined in the Act. An example of this would be a disclosure made to the Comptroller & Auditor General or to the Chief Executive of the Higher Education Authority (HEA). When a worker chooses to disclose in this manner, he or she must reasonably believe that the relevant wrongdoing falls within the remit of the Prescribed Person and that the information disclosed, and any allegation contained in it, are substantially true.⁴⁵

8.3.4 A further avenue of disclosure can be used in very limited circumstances and is a wider disclosure to 'others' which includes disclosure to the media. In order for the worker to benefit from protection there are additional criteria to be satisfied including: they have to reasonably believe the disclosure to be substantially true and that the disclosure is not being made for personal gain. The Act lists a number of other criteria, at least one of which has to be met by the worker. These include that the discloser reasonably believes that they would be penalised if they made the disclosure internally or to a Prescribed Person or to a Minister (for employees of public bodies); or there is no Prescribed Person for the type of issue being reported and the discloser believes that it is likely that evidence will be concealed or destroyed if they made a report to their employer. Workers are advised to seek legal advice before opting to make a disclosure in this way.

8.3.5 Disclosers are invited to make an internal disclosure even where they have already made an external disclosure so that their employer can ensure that they are protected from any form of retaliation or detriment for reporting wrongdoing.

9. SUBJECT OF THE DISCLOSURE

9.1 A worker who is the subject of a disclosure is entitled to fair treatment. While an investigation is ongoing, all reasonable steps will be taken to protect the confidentiality of those who are the subject of a protected disclosure pending the outcome of the investigation.

10. REPRESENTATION

10.1 Any worker making a protected disclosure or any worker against whom an allegation has been made must have their constitutional right to natural justice and fair procedures upheld in accordance with all relevant employment legislation. In this regard, appropriate representation, if requested, will be accommodated. For the purposes of this policy, representation includes a colleague of the worker's choice or a representative of a recognised trade union which holds the negotiating rights for the grade of the worker.

11. RECORDS

11.1 Records associated with disclosures, including the outcome, shall be retained, in accordance with the Institute's Records Retention Policy. All such records shall be maintained in a confidential and secure environment.

⁴⁴ Guidance is available at <https://www.gov.ie/en/organisation-information/27e82-make-a-protected-disclosure/>.

⁴⁵ A list of Prescribed Persons can be found at <https://www.gov.ie/en/collection/41798-protected-disclosures-whistleblowing-list-of-prescribed-persons/>

12. REPORTING

- 12.1 The ARC will include relevant updates on disclosures in their reports to the Governing Body whilst preserving all necessary confidentiality obligations.
- 12.2 The Governing Body will make an annual report to the Minister as requested in legislation which will also be published on the Institute's website. This report will not enable the identification of the person involved to be revealed. It will, however, include the number of disclosures made, the action (if any) taken in response and other such information and action taken, as may be requested by the Minister.

13. POLICY UPDATES

- 13.1 This policy and associated procedures will be updated in line with legislative changes.
- 13.2 At all times legislation will take precedence where relevant over the provisions made in this policy and the associated procedures.

14. TRAINING

- 14.1 Existing and new staff will be made aware of this policy through induction and training or as appropriate. This policy will be available on the Institute's website.
- 14.2 The Institute will ensure that the ARC receives appropriate training to deal with Protected Disclosures, and issues that might arise as a result thereof.

APPENDIX I ADVICE FOR STAFF MAKING A DISCLOSURE

The Institute acknowledges the difficult choice a worker may have to make a disclosure. As the issues that prompt disclosures are likely to be complex, how the worker proceeds will vary from situation to situation. The following advice is recommended if a worker wishes to make a disclosure:

- make any disclosures of illegal, unsafe or unethical practices promptly, as timely disclosures can be verified or investigated with less difficulty
- focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem
- be accurate in his/her observations and claims and keep a record of relevant events

Workers may also wish to seek legal advice through their union, or legal advisor. Staff should note that the Act provides that these disclosures are protected.

[The TU is a member of the [Integrity at Work](#) programme, a Transparency International (TI) Ireland initiative that supports employers to foster an environment where staff feel safe to share concerns of wrongdoing.]

[As part of our commitment to protecting workers who raise concerns, the TU has signed the Integrity at Work Pledge to ensure that workers reporting wrongdoing will not face penalisation and that action will be taken in response to the concerns raised. If you are considering reporting a concern, free and confidential advice is available from TI Ireland's Speak Up Helpline at 1800 844 866, which operates Monday to Friday from 10am to 6pm. You can also make an enquiry via secure online form or encrypted text at www.speakup.ie. Further information is available in the [Speak Up Safely video](#) and in the Speak Up Safely Guide and FAQ's located on the staff portal [here](#). **[insert relevant links]** Where appropriate, the Speak Up Helpline can refer callers to access free legal advice from the Transparency Legal Advice Centre (see <https://www.transparency.ie/helpline/TLAC>).]

APPENDIX II ROLES & RESPONSIBILITIES

All Staff	To ensure that disclosures are communicated to nominated disclosure recipients and that workers seek advice to ensure that they are aware of the requirements of the Protected Disclosures Act 2014.
Senior Management Team	To advise staff as to appropriate policy / route to take to ensure the appropriate steps are followed.
Chair of the Audit & Risk Committee	<p>The official 'Recipient' of protected disclosures whose role is to assess or engage an independent assessor and/or investigator to address the issues received in each disclosure. In some cases, an alternative process may be engaged. For example, the Chair may refer reports back to the VP Corporate Affairs & Finance and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time.</p> <p>To ensure that Disclosers are provided feedback in relation to their disclosures and that they may be informed in general terms of the outcome of the investigation except in exceptional circumstances</p>
Human Resources	To ensure that all workers are informed of the Protected Disclosures Policy.
Review Group	<p>The Audit & Risk Committee (ARC) or a sub-committee thereof shall assess the disclosure, establish the factual information and decide the course of action to be taken, if any. Where applicable a determination will be made as to what steps will be taken as part of an investigation.</p> <p>Where the ARC deems it appropriate, an External Assessor will be appointed (see below).</p>
Investigation Group	<p>Where an investigation is deemed appropriate, a Terms of Reference will be determined by the ARC with details of who will conduct the investigation and how the investigation will be carried out, whilst ensuring that the principles of natural justice and fair procedures are adhered to. This group will consist of independent members of staff (with no conflicts of interest, actual or perceived).</p> <p>Where the ARC deems it appropriate, an External Investigator will be appointed (see below).</p>
External Assessor	The ARC may decide to appoint an external person/body to assess the disclosure received and make a determination on the issues and whether they should be investigated as a protected disclosure.
External Investigator	The ARC may decide to appoint an external person/body to investigate the disclosure and provide a written report to the ARC.
Appeal Group	If dissatisfied with the decision of the Review Group or the investigation process, the Discloser can request to have the assessment outcome

	<p>and/or investigation process examined within 10 working days of having been informed of the outcome/end of a process.</p> <p>The ARC or a sub-committee thereof shall carry out the examination of the assessment outcome and/or investigation process, having cognisance of any potential conflict of interest. They will examine if the assessment and/or investigation processes were carried out in accordance with policy and in a fair and transparent manner.</p> <p>Where appropriate, the ARC may appoint an external person/body to undertake this examination.</p> <p>The outcome of an appeal will represent a final internal decision on the matter.</p>
Governing Body	To review and assess how the policy is working and to make adjustments to policy as appropriate.

APPENDIX III DEFINITIONS

Term	Definition
Protected Disclosure	A disclosure of information which, in the reasonable belief of the worker, tends to show one of more relevant wrongdoings; came to the attention of the worker in connection with the worker's employment; and is disclosed in the manner prescribed in the Protected Disclosures Act 2014.
Worker	The legislation applies to all workers. The definition of ' <i>worker</i> ' is very broad and includes employees, contractors, agency staff, work experience students or trainees, temporary employees and former employees.
Relevant Wrongdoing	<p>These are defined in the legislation as:</p> <ul style="list-style-type: none"> a) an offence, that has been, is being or is likely to be committed; b) a person has failed, is failing, or is likely to fail to comply with any legal obligation other than under the worker's contract of employment; c) that a miscarriage of justice has occurred, is occurring or is likely to occur; d) that the health or safety of any individual has been, is being or is likely to be endangered; e) that the environment has been, is being or is likely to be damaged; f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has, is or is likely to occur; g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement; or h) that information tending to show any matter outlined above has been, or is likely to be, concealed or destroyed.
Reasonable belief	When making a protected disclosure to an employer, the worker is required to have a "reasonable belief" that the information s/he is reporting tends to show a

	“relevant wrongdoing” as listed in the legislation. While the legislation does not provide a definition of reasonable belief, it is taken to mean that there is an honest belief that is objectively reasonable. It is a relative concept and applies to what is appropriate given all of the factors involved in the situation.
Substantially true	The requirement for a worker to “reasonably believe that the information disclosed, and any allegation contained therein, is substantially true” applies when making an external disclosure i.e. a disclosure made to Prescribed Persons and to Other Persons. Further criteria apply to external disclosures and it is important for a Discloser to seek advice before reporting in this way.
Prescribed Person	Disclosures relating to relevant wrongdoings can be made to ‘Prescribed Persons’ provided certain criteria are met. The most up-to-date list of Prescribed Persons is available at https://www.gov.ie/en/collection/41798-protected-disclosures-whistleblowing-list-of-prescribed-persons/

APPENDIX IV THE INTEGRITY AT WORK PLEDGE

[Insert Technological University (TU) name] recognises the importance of maintaining an ethical workplace and the valuable contribution of those who raise concerns about wrongdoing. We commit to not penalising, or permitting penalisation against, a worker* who reports risks or incidents of wrongdoing and to responding to or acting upon those concerns.

In committing ourselves to this pledge we will work towards implementing a 'whistleblowing'/protected disclosures policy and procedures which will:

Promote the reporting of wrongdoing or the risk of harm to a responsible person inside the organisation or external bodies as appropriate.

Provide comprehensive information about the types of disclosures that can be made, by whom and in respect of what.

Encourage our workers to seek professional advice both prior or subsequent to making a report.

Assure our workers that any report will be dealt with in the strictest confidence and that their identity or identifying information will not be disclosed to third parties unless required by law or necessary for the purposes of conducting an investigation.

Provide our workers with sufficient notice and a timely explanation in the event that his or her identity is to be disclosed to a third party.

Confirm that reports will be acted upon within a reasonable time frame and take whatever remedial action is deemed necessary by the organisation to address any wrongdoing or the risk of wrongdoing that might have been identified in response to the report.

Commit to keeping any worker who makes a report informed on the progress of investigations.

Provide for appropriate disciplinary action to be taken against anyone found to have penalised a worker for (i) having reported wrongdoing or

(ii) refusing to engage in wrongdoing.

Additionally, the organisation commits to record anonymised data each year on i) the number of reports made to it under the Protected Disclosures Act 2014, ii) the nature of each report, iii) the number of complaints of retaliation against workers who have made disclosures and iv) the action taken in response to each report.

Share this data (as set out in paragraph i) with senior management, including the Board, or with the Minister of Public Expenditure and Reform (where appropriate).

Ensure that our managers and responsible persons are aware of our commitments under this Pledge and related policies and procedures and are adequately trained in handling a report.

Publicise our commitment to the Integrity at Work initiative with our workers and other relevant stakeholders.

* “Worker” refers to staff, contractors, consultants, agency staff and interns

Details of our Protected Disclosures Policy and Procedures can be found on our website at **[insert name of TU’s web address]**

Signed

Signed

Position Held

Position Held

TECHNOLOGICAL UNIVERSITY
Protected Disclosure (Whistleblowing) Procedure

Policy Title: Protected Disclosure (Whistleblowing) Procedure

Policy Number:

Quality Assurance Area Code:

Date Approved:	Date Policy to take effect:	Date Policy was Reviewed:
Approved by:		
Head of Function responsible:		
Document maintained by:		
Reference Documents:		

Revision History

Revision No	Description of Change	Approval Date	Status
1			
2			
3			
4			

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To be populated by TU.

1. EXECUTIVE SUMMARY

This procedure advises workers on how to make an internal Protected Disclosure. It is intended to be read in conjunction with the TU's Protected Disclosure (Whistleblowing) Policy.

The Procedure consists of four parts as follows:

1. General Introduction
2. Description of sources of support and advice
3. How to make a disclosure and details of what to include in a disclosure
4. Description of what happens after a disclosure is made

The following appendices are included:

- Appendix 1 Alternative routes for complaints or grievances
- Appendix 2 Protected Disclosure Notification form
- Appendix 3 Flow chart of Protected Disclosure process

2. GENERAL INTRODUCTION

- 2.1 As outlined in the Protected Disclosure (Whistleblowing) Policy (the Policy), the first avenue for disclosure is internal and can be made orally or in writing directly to the TU's Audit & Risk Committee (ARC) via its Chairperson (the Recipient); to their line manager; or the Vice President (VP) for Corporate Affairs and Finance.⁴⁶ Where a disclosure is made to a line manager or to the VP for Corporate Affairs and Finance, the disclosure will be passed to the Chair of the Audit & Risk Committee (ARC), who is formally the 'Recipient'.⁴⁷
- 2.2 As per the Policy, (section 6.5), a worker is not required to investigate matters themselves to find proof of the wrongdoing and should not endeavour to do so.

3. SOURCES OF SUPPORT & ADVICE

- 3.1 A worker who has made, or is intending to make, a disclosure of wrongdoing is encouraged to seek additional support and may wish to access any or all of the following supports:
 - [Read Speak Up Safely: Transparency International Ireland's Guide to Whistleblowing and making a Protected Disclosure](#)
 - Contact Transparency International Ireland's Speak Up Helpline on **1800 844 866** or submit an encrypted email⁴⁸ at www.speakup.ie
 - Watch the Speak Up [video](#) at this link
 - Speak to their line manager
 - Seek advice from their union or legal advisor. Disclosures made to a legal advisor and/or to a trade union official in the course of obtaining legal advice are protected under the Protected Disclosures Act 2014 (the Act).

⁴⁶ In the case of contractors or agency workers, a concern should be raised with their Institution point of contact.

⁴⁷ The Chair of the ARC may refer reports back to the VP for Corporate Affairs & Finance and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time.

⁴⁸ An encrypted email is one where the information and/or data has been converted into a code, which prevents unauthorized access.

- Click on this link to find contact details for the [Employee Assistance Programme](#). [\[Insert appropriate link\]](#) Alternatively, they can be contacted on Freephone Helpline Number 1800 817 435.

3.2 Any worker making a protected disclosure, or any worker against whom an allegation has been made, must have their constitutional rights to natural justice and fair procedures upheld in accordance with all relevant employment legislation. In this regard, appropriate representation, if requested, will be accommodated. For the purposes of this procedure, representation includes a colleague of the worker's choice or a representative of a recognised trade union which holds the negotiating rights for the grade of the worker.

4. HOW TO MAKE A DISCLOSURE

4.1 As stated above, the first avenue is internal, and disclosures for the TU can be made orally or in writing directly to the TU's ARC via its Chairperson (the Recipient); to a line manager or to the VP for Corporate Affairs and Finance. The ARC is a committee of the Governing Body.

4.2 Where a disclosure is made to a line manager or VP for Corporate Affairs and Finance, the disclosure will be passed to the Chair of the ARC, who is formally the 'Recipient'.

4.3 The Chair of the ARC may refer reports back to the VP Corporate Affairs & Finance and/or another appropriate member of the Executive team to manage, based on their capacity to deal with a report at any given time.

4.4 A disclosure under this guidance should preferably be made in writing to ensure that all the relevant information is made available at the time the disclosure is made.

A Protected Disclosures Notification form is attached in Appendix 2. The Information contained in the disclosure should:

- include the name of the Discloser, position in the Institution, place of work, date of disclosure and preferred contact details
- be clear and factual
- so far as possible, avoid speculation, personal attacks, and emotive language
- include the details of the alleged wrongdoing and any supporting information that is available to the Discloser including:
 - the date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced or was identified
 - whether or not the alleged wrongdoing is still ongoing
 - whether the alleged wrongdoing has already been disclosed to any member of management and if so when and to what effect

4.5 Note that while the above approach is recommended there is, under the legislation, no required format for the making of a disclosure. A disclosure can be made orally or in writing.

When a disclosure is made orally, it will be documented by the person receiving the disclosure, with the transcript of the disclosure then agreed upon with the Discloser.

5. ANONYMOUS DISCLOSURES

5.1 Disclosures may be made anonymously, however, we would ask that if doing so, workers provide an anonymised email address that will allow the recipient of the disclosure to correspond with them. It should be noted that in certain circumstances the worker may need to reveal their identity – for example, to determine whether the person making a disclosure is a worker. This will not affect the worker's rights or the TU's responsibilities to protect their confidentiality.

- 5.2 If the worker chooses not to provide a means of communication when making a protected disclosure, the concerns that have been raised will be investigated to the furthest extent possible. However, anonymous disclosures may be less capable of being addressed as it may be difficult to investigate and to corroborate facts. It may also be difficult to protect the worker from any penalisation that may arise as a result of having made a report. Furthermore, the TU may not be able to keep the worker updated on the progress and/or outcome of any investigation that arises from the disclosure.

6. WHAT HAPPENS AFTER A DISCLOSURE IS MADE

- 6.1 Within 7 working days of a disclosure being received, the ARC will reply to the worker who made the disclosure:

- Acknowledging that the concern has been received
- Indicating that the committee is dealing with the matter
- Informing them that further communications will take place

- 6.2 The ARC or a sub-committee thereof (the 'Review Group') shall carry out an initial assessment of the issue, establish the factual information and decide the course of action to be taken, if any. This initial assessment will determine whether or not the matter should be treated as a potential protected disclosure. This assessment will consider whether the alleged wrongdoing is serious or minor, whether it is something that can be investigated or not, and where applicable, a determination will be made as to what steps will be taken as part of any further investigation.

In some circumstances, the Review Group may need to be expanded to encompass other expertise or knowledge and/or an External Assessor may be used. The Chair of ARC will ensure that any potential or actual conflict of interest is avoided. Corporate Governance will provide secretarial assistance as required to the Review Group.

- 6.3 Employees of the TU, including Senior Management, may be called on by the ARC to provide information relevant to the disclosure in order to assist in establishing further facts. Additionally, where appropriate, Senior Management may be asked to assist in the process. Every effort will be made to ensure that any potential conflicts of interest are identified and that a completely objective and impartial process is assured.

- 6.4 The Discloser will be provided with further feedback in relation to the matters disclosed and be advised when consideration of the disclosure is complete, except in exceptional cases.

There are two possible outcomes after the initial assessment is completed:

- Do not proceed to investigate
- Proceed to investigate

- 6.5 If a Discloser is not satisfied with the outcome of the initial assessment, they will have the option of lodging an appeal - see further details below in 7.2.

- 6.6 Information and feedback will be provided in confidence; however, the Recipient is not obliged to inform the Discloser of the progress, or outcome, of any subsequent disciplinary process involving another worker. In general, such information is confidential between the employer and the worker disciplined.

- 6.7 A flow chart of the protected disclosure process can be found at Appendix 3.

7. DECISION NOT TO PROCEED TO INVESTIGATION

- 7.1 If the decision is not to proceed to investigation, the Recipient will advise the Discloser accordingly. There are two reasons why the decision not to proceed may be taken:

- No grounds to proceed
- Another Institutional policy may be more relevant

Where the ARC decides that the matter should be dealt with under a different policy, advice will be provided to the Discloser as to the steps to take in this regard.

- 7.2 If the Discloser is dissatisfied with a decision of the Recipient not to pursue the matter further, he/she may lodge an appeal of the decision with the Recipient within 10 working days of having received the decision.
- 7.3 The Recipient will appoint an Appeal Group (not previously involved in the process and with no perceived or actual conflict of interest) to undertake a review of the initial decision. The Appeal Group will notify the Recipient of the outcome of that appeal. Corporate Governance will provide secretarial assistance as required to the Appeal Group.
- 7.4 On completion of the review, the Discloser will be advised by the Recipient of the outcome of the appeal, which will be either (a) or (b) below.
 - a) Agreeing with the decision not to proceed to investigation
 - b) Disagreeing with the decision not to proceed with the investigation and, referring the disclosure back to the ARC to organise an investigation.
- 7.5 A decision of the Appeal Group not to pursue the matter will represent a final internal decision on the matter.

8. DECISION TO PROCEED TO INVESTIGATION

- 8.1 Where an investigation is deemed appropriate, a Terms of Reference will be determined with details of who will conduct the investigation and how the investigation will be carried out, whilst ensuring that the principles of natural justice and fair procedures are adhered to.
- 8.2 If the ARC deems it appropriate, they may call on external expertise at their discretion in order to assist them.
- 8.3 It is not possible to lay down precise timescales or steps required for investigations, as this will depend on the nature of the issues raised, however, the Recipient will advise on progress and the investigation will be brought to a conclusion as soon as possible.
- 8.4 The person/persons appointed to carry out the investigation will provide a written report to the ARC detailing their findings and recommendation(s) for consideration. Upon receipt of the Investigator's report, the ARC will decide on the necessary action that is required.
- 8.5 It should be noted that if a further disclosure is made during an investigation or disciplinary process, it does not affect those distinct processes.
- 8.6 As per section 8.2.12 of the Policy, the Discloser may be informed in confidence that appropriate action has taken place, however, it may not be possible to provide details of the appropriate action to the Discloser.
- 8.7 In the event that the Discloser is dissatisfied with the outcome of an investigation, it is open to the Discloser to request an appeal. A request for an appeal must be made to the Recipient within 10 working days of having been informed that the investigation has been concluded.
- 8.8 The Recipient will appoint an Appeal Group (not previously involved in the investigation process and with no perceived or actual conflicts of interest) to undertake a review of the investigation. The Appeal Group will notify the Recipient of the outcome of the appeal. Corporate Governance will provide secretarial assistance as required to the Appeal Group.

- 8.9 On completion of the review, the Discloser will be advised by the Recipient of the outcome of the appeal, which will be either (a) or (b) below.
- a) That the investigation outcome was appropriate;
 - b) That the investigation outcome was not appropriate, referring the matter back to the ARC to take further action.

The outcome of this appeal will represent a final internal decision on the matter.

- 8.10 As it is not possible to know at the time whether a disclosure will subsequently be deemed protected under the Protected Disclosures Act 2014. The Recipient should keep a written record of their actions, including timelines. All disclosures will be treated as protected until such time as they are deemed to be more appropriately investigated under another policy, and the Discloser will be advised accordingly.
- 8.11 It is important to note that some matters may be of such seriousness that the investigation will have to be carried out professionally, such as by subject matter experts, or the matter may need to be reported to and investigated by An Garda Síochána. If this is the case the Discloser will be informed accordingly.

9. ADDRESSING REPORTS OF PENALISATION

- 9.1 As per Section 6 of the Protected Disclosure (Whistleblowing) Policy, the TU will not tolerate any harassment or victimisation of a worker who has made a disclosure under this policy (including informal pressures) and commits to assess/investigate all notifications of penalisation and take appropriate action where necessary.
- 9.2 Any worker who believes they are being/have been penalised for making a protected disclosure should contact the Chair of the ARC or the Head of HR as soon as possible. Such notifications will be addressed promptly.
- 9.3 The TU will take prompt and appropriate action to ensure the protection of the Discloser and may instigate a formal investigation into the penalisation allegations. This process will be led by the ARC and/or the HR Department as appropriate. The investigation may be carried out by an internal or external party.
- 9.4 The TU will treat any acts of penalisation, or attempted penalisation, as a serious matter which may be dealt with under the TU's Disciplinary Procedure **[Insert appropriate reference]**.
- 9.5 A worker who has made a protected disclosure can seek a review of the outcome of any assessment/investigation in respect of any complaint of penalisation. Any review will be undertaken by a person who has not been involved in the initial assessment, investigation or decision. There is no entitlement to two reviews in respect of the same issue.

10. PROCEDURE UPDATES

- 10.1 This procedure and associated policy will be updated in line with legislative changes.
- 10.2 At all times legislation will take precedence where relevant over the provisions made in this procedure and the associated policy.

APPENDIX I Other Policies for Complaints or Grievances

Policy/Procedure	Purpose
Dignity & Respect Policy	The policy addresses the development of awareness among all participants in the educational process of the need to promote dignity & respect opportunity for students and staff. The policy outlines the obligations of the TU as an equal opportunities' employer and as a provider of vocational services. It also deals with Bullying & Harassment procedures and remedies.
Grievance Policy	This policy generally deals with matters specific to a worker, such as that worker's employment, their duties, their working procedures or working conditions
Disciplinary Procedure	The purpose of the disciplinary procedure is to ensure that the TU acts reasonably and fairly towards workers in investigating and dealing with alleged instances of unacceptable conduct or performance.
Health and Safety Policy	It is the policy of the TU to promote high standards of health and safety within the TU and to ensure that the best practicable methods of compliance with the Safety, Health and Welfare at Work Act 2005, the Safety, Health & Welfare at Work (General Application) Regulations 2007 and associated legislation are achieved.
Conflict of interest Policy	This policy sets out the procedures to be followed by the TU in respect to actual, perceived, or potential conflicts of interest

APPENDIX II Protected Disclosure Notification Form

Before you complete this form, you should read the **Protected Disclosure (Whistleblowing) Policy** and the attached **Procedure for making a Protected Disclosure** carefully and ensure that the subject matter of your concern is covered by the legislation. If you are in any doubt, you are encouraged to make use of the following supports:

- [Read Speak Up Safely: Transparency International Ireland's Guide to Whistleblowing and making a Protected Disclosure](#)
- Contact the Speak Up Helpline on **1800 844 866** or submit an encrypted email⁴⁹ at www.speakup.ie
- Watch the Speak Up [video](#) at this link
- Speak to your line manager
- Seek advice from your union or legal advisor
- Click on this link to find contact details for the [Employee Assistance Programme](#).
Alternatively, they can be contacted on Freephone Helpline Number 1800 817 435.

Please note that when making a protected disclosure to an employer the worker is required to have a 'reasonable belief' that the matter they are reporting tends to show a 'relevant wrongdoing' as listed in Section 4.1 of the **Protected Disclosure (Whistleblowing) Policy**.

The Technological University (TU) will treat all disclosures made under this policy in a confidential and sensitive manner. Where confidentiality cannot be maintained, for example in a situation where the worker is participating in an investigation into the matter being disclosed, the TU will make every effort to inform the worker that his/her identity may be disclosed. Anonymous reports will be considered but may be less capable of being addressed as it may be difficult to investigate a matter and to corroborate facts. The TU encourages a worker to put their name to disclosures made where possible or to provide a means of continuing communication e.g., an anonymised email address.

1. I, _____ (name of worker) wish to make a disclosure under the Protected Disclosures Act 2014

2. Position in the Organisation:

3. Place of work:

4. Category of Wrongdoing [more than one box can be selected]

- A criminal offence
- A failure to comply with a legal obligation
- A miscarriage of justice
- The endangering of any individual's health or safety
- Damage to the environment

⁴⁹ An encrypted email is one where the information and/or data has been converted into a code, which prevents unauthorised access.

- Unlawful or otherwise improper use of funds or resources of a public body, or of other public money
- That an act or omission is oppressive, discriminatory, or grossly negligent or constitutes gross mismanagement

- Concealment or destruction of evidence relating to any of the above.

5. Date of the alleged wrongdoing (if known) or the date the alleged wrongdoing commenced:

6. Description of the wrongdoing:

7. Is the alleged wrongdoing still ongoing?

8. Has this alleged wrongdoing already been disclosed, if so, to whom, when and what action was taken?

9. Any other relevant information:

10. Please provide contact details at which the Recipient can contact you:

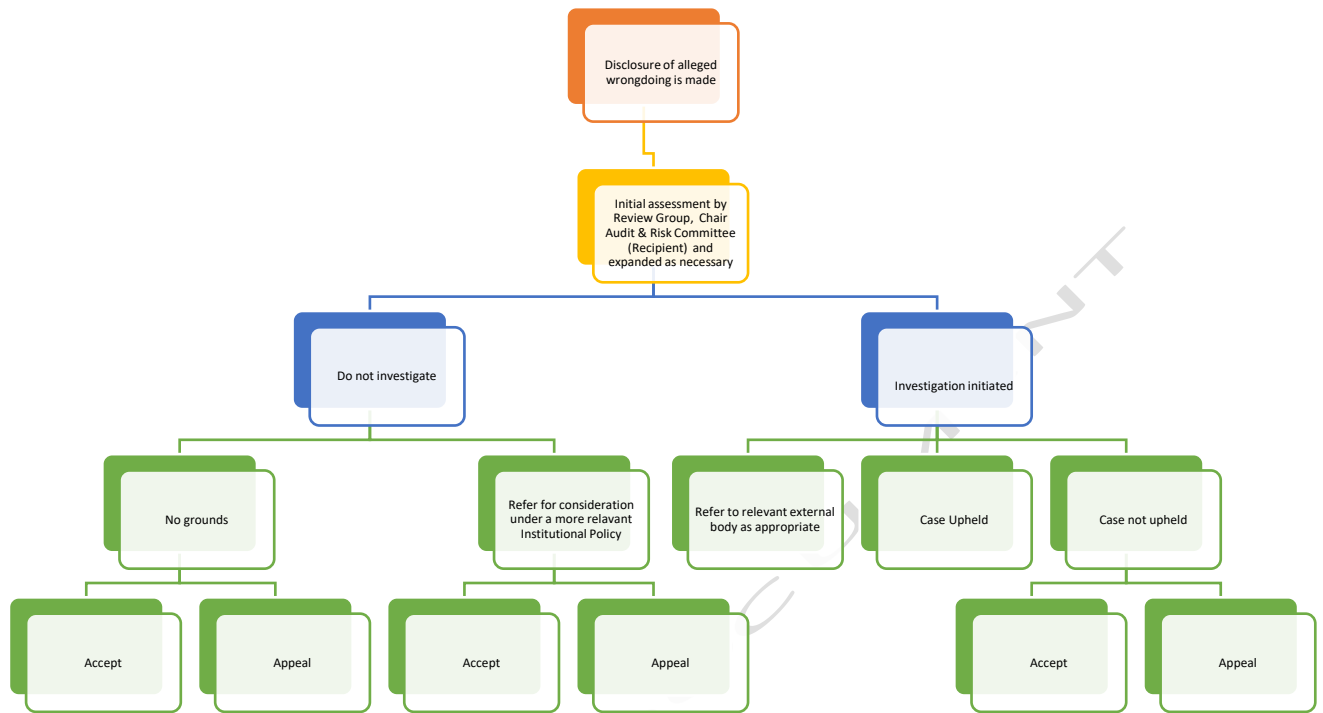
Tel no:

Email:

Address:

Date:

APPENDIX III Flow Chart of Protected Disclosure Process



WORKING DRAFT

APPENDIX IV Contact Details for Disclosure Recipients

To be populated by TU.

WORKING DOCUMENT